

**LOUISIANA WILDLIFE AND FISHERIES COMMISSION**

**MINUTES**

**November 6, 2008**

**PATRICK C. MORROW  
CHAIRMAN**

**BATON ROUGE, LOUISIANA**

The following constitute minutes of the Commission Meeting  
and are not a verbatim transcript of the proceedings.

Tapes of the meetings are kept at the  
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**  
**NOVEMBER 6, 2008**

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MINUTES OF THE MEETING  
OF  
LOUISIANA WILDLIFE AND FISHERIES COMMISSION

Thursday, November 6, 2008

Chairman Patrick Morrow presiding.

Earl King, Jr.  
Henry Mouton  
Stephen Oats  
Stephen Sagrera

Secretary Robert Barham was also present.

Commissioners Frederic Miller and Robert Samanie, III were absent from the meeting.

Chairman Morrow called for a motion for approval of the **October 2, 2008 Commission Minutes**. A motion for approval was made by Commissioner Oats and seconded by Commissioner King. The motion passed with no opposition.

Under **Commission Special Announcements/Personal Privilege** for this month, Commissioner Oats stated Representative Dorothy Hill was attending the meeting and wanted to speak on an issue regarding the use of a wildlife management area. He then asked that this issue be presented now. There were no objections to the request.

Representative Dorothy Hill thanked the Commission for hearing her plea and the plea of the Town of Elizabeth. The Town of Elizabeth has an annual Christmas in the Country event which was scheduled for December 6 and included a trail ride and parade. The event brings into about \$70,000 to the area which was very good for the economy. The Director of Tourism for Allen Parish was also at the meeting and Representative Hill felt this was a tourism boost for the area. People from New Mexico, Texas, Arkansas and all over Louisiana come to the area to participate in a trail ride on the West Bay WMA and other activities. Representative Hill stated she did not know about the prohibition on WMA trail rides until she attended a Town Hall meeting in Oakdale in which the Governor also attended. One of the attendees spoke to the Governor about the problem and he and the Representative contacted Secretary Barham to see if there was a solution. The Representative then commented that she had not been notified of a meeting held to discuss changes for the WMAs. She did note that Camp Beauregard was able to keep their trail ride, and had the Town of Elizabeth known of the meeting, something could have been worked out. Representative Hill then asked if anything possible could be done, it

would be very much appreciated. Commissioner Oats asked if the problem was the WMA rules do not provide for trail rides for the Christmas in the Country? Representative Hill felt that was the issue. Commissioner King wondered what was Secretary Barham's response.

Secretary Barham stated that the landowners, Roy O. Martin and Forest Capital, did not want any drinking, littering or unauthorized vehicles (4-wheelers) on the WMA. When Representative Hill contacted the landowners from Roy O. Martin, she was told they did not have a problem with the trail ride. She did not contact Forest Capital. Chairman Morrow knew that there has been problems in the past with drinking and 4 wheelers on WMAs. He also commented that the landowners would not lease the property to the State for a WMA if these activities continued. This left the Commission with the choice between allowing one user group to have their trail ride versus the landlord not releasing the property. In May or June of this year was the time when the WMA regulations were passed for this season. The Chairman then asked Mr. Don Puckett to address the possibility of amending a WMA regulation without public notice. Mr. Puckett stated the Notice of Intent was promulgated in February and the last date to amend the General and WMA Regulations was April. So, under the current protocol, no amendments could be considered for the current hunting season. Commissioner Oats asked if this regulation was specific to this one WMA or was it for all WMAs. Mr. Puckett stated there was a general prohibition against organized trail rides with the Camp Beauregard exception. Mr. Jimmy Anthony added that all of the landowners for the leased WMAs was contacted about the proposed regulation and none objected except the Louisiana National Guard which would allow a trail ride by permit only from them. Commissioner Oats felt the Commission's hands were tied. Secretary Barham briefed Commissioner Oats and Chairman Morrow on the issues and Commissioner Oats noted procedurally their hands were tied due to the public comment period. He then added that Secretary Barham wanted the Representative and her group to know they have been very effective in presenting their needs for the area. Representative Hill asked for any mercy. Commissioner Mouton stated that legally they could not go back and make any changes. Chairman Morrow stated that this was the same procedural issue that came about with the additional dog hunting days on Kisatchie National Forest. Representative Hill asked that the other people be given the chance to speak on the issue. She asked that they be notified next year when the procedures begin again. Chairman Morrow suggested lobbying the landlords for the WMA. Commissioner Oats felt all of the people from the area should be involved in the process when it begins again in January or February. Representative Hill asked that a notice be published in the Oakdale Journal. Commissioner Mouton suggested the landowners put in writing their stance on the issue.

Ms. Adagrie Haddock, Director of the Allen Parish Tourist Commission, stated she was begging for mercy as well. The Town of Elizabeth has 500 people and this event was one of the biggest in the parish. With there being 3 weeks away from the event, there was no way to get in touch with those planning to attend. Ms. Haddock's concern was that if there was no trail ride this year, they may lose a lot of people if there is a trail ride next year. She then asked for a variance for this year only and then work the problem out for next year. Commissioner Oats commented that they sought the advice of the lawyers for any legal opportunities and found there were none. He suggested finding another activity that could be done on the WMA that did not violate the regulations, but Ms. Haddock stated that the

tourist bring their horses to go on the trail ride. She then asked if the agents could be lenient when the tourists come or was there something that could be done to help maintain the situation. Ms. Haddock asked if they needed to come back in February and Commissioner Oats answered yes, that was when the process starts again. Chairman Morrow mentioned Mr. Anthony received an e-mail from Forest Capital stating they were against the trail ride. He then suggested focusing their efforts with Forest Capital. Ms. Haddock felt there was a lack of communication since the communication she received noted they did not have a problem with the trail ride. Chairman Morrow did not see any way for the Commission to grant any waivers, but encouraged they come back in January.

Mr. Philip Turner, Chairman of the Recreation District in Elizabeth, thanked the Commission for doing what they could. He added he understood the protocol. Mr. Turner noted their event does not involve 4 wheelers except for Sheriff's Deputy or Paramedics, this was just horse riding. He stated that he knows the General Manager for Capital Forest and was told there was no problem. He then asked for any advice from anyone since the Town of Elizabeth would probably be slandered with a black mark. Chairman Morrow stated the goal of the Commission was to allow as much access to all user groups. When the process begins again in January, the Town of Elizabeth will be notified. Mr. Turner again thanked the Commission for their time.

Chairman Morrow then took a personal privilege stating Commissioner Mouton would retire from the Board after his 6 years of service. He noted that Commissioner Mouton was the longest serving Member on the current Board and that he has been most vocal for the consumer and the sportsman while balancing the interests of everyone. Chairman Morrow then read and presented a plaque to Commissioner Mouton. He hoped that the new appointment would have the drive and commitment that was exhibited by Commissioner Mouton over the last 6 years.

**To receive and hear Enforcement & Aviation Reports/October** began with Lt. Col. Keith LaCaze stating the enforcement focus shifted from boating to hunting seasons and the new tagging and validation requirements for deer. He noted there were 1,679 citations issued statewide, 422 written warnings and agents helped with 26 instances of public assists for the month. Statewide there were 47 citations and 20 warnings issued on deer tagging. With this new regulation still in the education process, agents issued criminal citations to those that were the most blaring cases of violation. In instances where someone had the tag, but did not put it on the deer, that hunter was issued a warning citation. Unforeseen problems that have showed up was validating the wrong tag or the wrong number. Lt. Col. LaCaze felt the new regulation was going well for the most part. Chairman Morrow felt the Department and News Media have done an excellent job in advising the public on the new tagging procedure. He then asked if the Department's website had any information. Lt. Col. LaCaze stated there was a video by Mr. Dave Moreland that explains the process. Continuing on, the Department's 3 planes flew a total of 121 hours for the month. There were 12 boating accidents reported during October, with 12 injuries and 3 fatalities. The fatalities occurred in Catahoula, Calcasieu and St. Martin Parishes. The use of PFD's during the upcoming hunting season would be even more critical, advised Lt. Col. LaCaze.

News Releases centered on citing 25 people for illegal oyster harvest in Sister Lake, closed season deer case in Hornbeck, Louisiana, theft of oysters from private leases in Terrebonne Parish, Acadia Parish deer hunting violation, and deer cases in Vernon Parish. The Enforcement Academy was still on-going with 9 cadets progressing well. Also during October, the after action reviews on hurricane activities were conducted. Changes and improvements from the reviews would be implemented before the beginning of the next season. Chairman Morrow felt things learned from Hurricane Katrina were implemented and he congratulated the Department for their concerted efforts.

**To receive and consider Notice of Intent on Numbering of U.S. Coast Guard Documented Motorboats** was handled by Major Ronald Morris. He stated this proposal would clear up some of the misconceptions on the numbering system for documented boats and placement of the validation decals. All of the states along the Gulf Coast were having to register documented boats. These boats are not numbered, but their validation decals are displayed. Commissioner King asked if this was for equipment owned by the Coast Guard. Major Morris stated this proposal would affect all boats documented by the Coast Guard. Commissioner King asked what brought about the requirement. Major Morris explained that a Coast Guard document was the federal registration system. Chairman Morrow asked if the Legislature passed a law in the recent session. Major Morris answered yes, and added that the State of Mississippi has the same rules as Louisiana. Commissioner Mouton felt the Coast Guard documented number was somewhere in the engine room and inscribed in the hull. He also thought the proposal proved better ownership of a vessel. Major Morris noted that commercial vessels do not have the 12 digit haul numbers that recreational vessels have and these boats are not in the Department's system. But the documented boats were being given a haul number and it had to be placed on the boat.

Mr. John Tesvich, Louisiana Oyster Dealers and Growers Association and the Louisiana Oyster Task Force, stated this issue was discussed at their last meeting and was causing a lot of consternation in the commercial fishery. The fishermen were finding that not only do they have to register the boats but they have to pay a significant fee for a 3 year decal. Mr. Tesvich added that this new legislation was a "sleeper" since not many knew about the requirement. These documented vessels were for those over 5 gross tons and they were already registered by the Coast Guard and the information on the vessel was readily available. The fishermen felt this was unfair since it was not required for all vessels operating in Louisiana. He wondered why the commercial fisheries was being taxed when oil field vessels were not affected. Mr. Tesvich mentioned the industry did not feel this proposal was fair and should have had more public comment. Chairman Morrow felt Mr. Tesvich's concerns needed to be addressed with the Legislature. Major Morris then read the proposed rule. Hearing no further discussion, Commissioner Oats made a motion to adopt the Notice of Intent. Commissioner Mouton seconded the motion and it passed with no opposition.

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



## NOTICE OF INTENT

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

The Wildlife and Fisheries Commission does hereby give notice of intent to enact rules governing the physical placement of numbers and decals on United States Coast Guard documented vessels registered with the Department of Wildlife and Fisheries.

### Title 76

## WILDLIFE AND FISHERIES

### Part XI. Boating

#### Chapter 3. Boating Safety

#### §307. Numbering of United States Coast Guard Documented Motorboats

A. The following regulations shall dictate the location, placement and special requirements for certificate of numbers and decals issued to United States Coast Guard documented motorboats that are registered with the Department of Wildlife and Fisheries as required by R.S. 34:851.19.

B. United States Coast Guard documented motorboats that are registered with the Department of Wildlife and Fisheries shall not be required to paint or attach the certificate of number to each side of the bow of the motorboat, but shall maintain proper marking of the motorboat as required by United States Coast Guard regulations for such motorboats. Persons operating such motorboats shall be required to have the actual certificate of numbers issued by the department immediately available for inspection at all times when such motorboat is in operation.

C. Operators of United States Coast Guard documented motorboats required to be registered with the Department of Wildlife of Fisheries shall display valid decals which are issued along with the certificate of number to the motorboat, and have such decals permanently attached to the motorboat. Decals shall be placed in a location clearly visible on each side of the motorboat so as to be easily accessible and available for inspection.

D. Violation of this section is a class one violation as provided in R.S. 56:31.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:851.20 and R.S. 34:851.27

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 Lt. Col. Jeff Mayne, Enforcement Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., January 6, 2009.

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

Mr. Larry Reynolds handled the next agenda item, **To announce Duck Stamp Competition Winners**. The winning design would be used on the 2009 Louisiana duck stamp. The sale of the duck stamp has raised about \$10 million since the program was initiated in 1989. The focus of the competition for the past 5 years has been on popular waterfowl hunting retrievers. This year's subject was the Chesapeake Bay Retriever, a breed which was developed to hunt waterfowl under the most adverse water and weather conditions. There were 18 entries from 11 states in this year's competition. Judges for the competition were Dr. Frank Rohwer, Mr. Tony Bernard, Mr. Armand Schwing, Ms. Jennifer Young and Mr. Joe Herring. Third place winner was Mr. Edward Suthoff from Montana who also won the 2004 competition. Second place winner was Mr. Timothy Turenne from Minnesota. Winner of the competition for this year was Mr. Anthony Padgett from Indiana. Mr. Padgett was also named the International Artist of the Year for Ducks Unlimited and one of his prints was being sold at local DU fundraisers. Chairman Morrow stated the Commission raised the youth age to 17 and under, but asked about the federal regulation for youth to duck hunt was 15 and under. Mr. Reynolds stated the youth waterfowl weekend were extra days to hunt and were outside of the regular 60 day season, and this does not allow the State to manipulate the regulations for that weekend. The Fish and Wildlife Service set the regulation at 15 and under for that weekend. The other youth hunts are scheduled during the regular 60 day season and the Department can set an age limit as they wish. Chairman Morrow asked if this regulation was nationwide and Mr. Reynolds answered yes.

The next item, **To receive and consider Notice of Intent on Natural Areas Registry** began with Ms. Patricia Faulkner stating this action would establish guidelines for the acceptance of dedicated properties and conservation servitudes by the Natural Areas Registry Program. Included in the packets were a reprint of an article from the *Conservationist* on Natural Areas Program and a copy of the most recent quarterly newsletter. Currently there are 108 properties in the Registry encompassing over 46,000 acres. The registry will partner landowners with the State to help preserve species of concern and their habitats. Most of the properties are held by private landowners and the State has been very effective in educating them on the species on their property and how to protect and manage them. Landowners enter the program by signing an informal agreement with the Department. The proposed rules would establish guidelines to ensure perpetual protection of the sites. Ms. Faulkner explained that a landowner retains ownership of his property with a conservation servitude but they give up some usage rights in order to protect the species or habitat. A dedicated preserve was either land donated or sold to the Department by the landowner. Specific characteristics on the property and the responsibilities for the Department and landowner are outlined in the Notice of Intent in order for it to be enrolled in the program. The proposed rule provides for a Committee that would review nominated properties for either a servitude or dedication. The Committee must review and approve the agreement and management plan and any amendments to the management plan. The Department would incur no direct cost since an endowment would be required by the landowner and this cost would be invested in the Natural Heritage Trust Fund. Hearing no questions on the Notice of Intent, Commissioner Oats made a motion to adopt, it was seconded by Commissioner Sagraera and passed with no opposition.

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

## NOTICE OF INTENT

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

The Wildlife and Fisheries Commission does hereby give notice of its intent to establish guidelines and requirements for Natural Areas Registry Program.

### Title 76

## WILDLIFE AND FISHERIES

### Part I. Wildlife and Fisheries Commission and Agencies Thereunder

#### Chapter 3. Special Powers and Duties

## **Subchapter E. Louisiana Natural Heritage**

### **§318. Natural Areas Dedication and Servitudes**

A. Background. In 1987, by an Act of the Louisiana State Legislature (Acts 1987, No. 324, §1, effective July 6, 1987), the Louisiana Department of Wildlife and Fisheries (LDWF) was named as the state agency responsible for administering the Louisiana Natural Areas Registry. A subsequent state legislative Act established the Wildlife Habitat and Natural Heritage Trust to manage funds for the purpose of acquiring and properly managing natural areas in Louisiana (Acts 1988, No. 492, §1, effective July 9, 1988). The Louisiana Natural Areas Registry provides official state recognition of natural heritage values on land parcels where they occur. A voluntary registration agreement adds a measure of protection, and servitudes or dedication of a Natural Areas Preserve provides secure protection.

B. Purpose. The primary purpose of dedicated nature preserves and conservation servitudes is to permanently protect high quality examples of Louisiana's natural heritage through land acquisition or perpetual easements by LDWF. To "dedicate" a property is defined as the transfer to LDWF of property rights in any natural area to be held for the citizens of Louisiana to protect the natural heritage values of the property.

C. Objectives. The primary objective of the Louisiana Natural Heritage Program (LNHP) is to assure that each species of conservation concern and each natural community type tracked by LNHP is adequately represented at securely protected sites. This can be accomplished by dedication of the property or through conservation servitudes that duly protect the property.

#### **D. General Guidelines**

1. A request for a dedication or servitude may be initiated by any party (LDWF, other state or federal agency, landowner, non-government organization, or other interested parties), and must be submitted to LNHP in writing and must include a justification, general information on the property and specific location and boundary map.

2. LNHP will review initial requests, and determine if proposed sites are eligible for dedication or servitude. LNHP will recommend only those properties that support rare plant or animal species, or an exemplary natural community type(s).

#### **E. Specific Requirements**

1. To begin the dedication or servitude process, a site is first evaluated by means of a comprehensive field survey(s). These baseline results should include a general description of the natural communities present on the site specifying size (in acres or hectares), condition, plant species composition, and community structure. Other site data should include topography, soils, rare plant and animal species present, any disturbances

to the site (anthropogenic or natural), current management, and status of the landscape surrounding the site. Evaluations that depend on seasonal opportunities for study (i.e. determination of the presence or absence of a particular species that is only evident during certain seasons of the year or within a limited time frame) may extend the survey period. A general description of the site boundaries, photographs of key areas within the property, management considerations and assessment factors mentioned above, are all documented in the survey.

2. LDWF shall accept only those areas determined to be high quality for dedication or servitudes. LDWF's determination will take into consideration information from the site survey, biodiversity of the site, numbers and quality of rare species and/or natural communities, whether the species and natural communities present are protected elsewhere within the state, previous land-use and its impacts to the site, any invasive species present and any other relevant biological or management factors.

3. LDWF shall not accept any portion of a property for natural areas dedication or servitude that currently has pine plantations with off-site timber, homesites, extensive livestock grazing, agricultural farms, or industrial or commercial uses unless LDWF determines that the site can be reclaimed and restored to natural conditions.

4. A Natural Areas Preserve Committee within LDWF composed of staff from the Office of Wildlife, and such other staff as is appropriate will review all pertinent information to make a determination of whether the site qualifies for natural areas dedication or servitude.

5. If the committee finds that dedication of the area as a Natural Areas Preserve or servitude to be appropriate and feasible, then the landowners of the proposed dedicated nature preserve/servitude and the LDWF Natural Areas Preserve Committee will work together to formulate the deed of dedication. The landowner is responsible for the land survey to determine the property appraisal, and agrees to subordinate any mortgages or deeds of trust affecting the property. The dedication or servitude agreement will contain a legal description of the boundaries of the site, specify the natural heritage values the agreement is designed to protect, and detail any financial provisions and any other considerations as needed. Additional documents may accompany the dedication or servitude agreement as required to meet the needs of the agency or other parties.

6. The landowner(s) who is transferring ownership or donating a servitude to LDWF is responsible for obtaining professional advice as they so desire.

7. LDWF shall notify adjacent landowners in writing of the dedicated preserve or servitude and measures to protect it, at a minimum through publication in the official parish journal(s) of the parish(es) in which the property is located. LDWF is also responsible for any associated costs of this notification.

8. LDWF shall monitor each natural areas dedicated preserve and servitude annually to assess its condition and ensure that there have been no violations of the agreement. The monitor shall inspect the preserve/servitude, documenting current conditions, and identifying and documenting any violations of the agreement.

9. A management plan shall be developed for each dedication and servitude that includes a property description (location, geology, physiography, hydrology, and soils), biological conditions, land use history and current conditions (hydrology, natural communities, logging, invasive and off-site species, trespassing), management objectives, and the management activities with specific natural community and species management related actions. The plan should delineate a detailed management scheme with the primary purpose to guide maintenance and/or restoration of native species and natural communities while integrating appropriate human use without compromising ecological integrity.

10. The Natural Areas Preserve Committee shall review and approve the management plan and any amendments. Amendments to the original servitude agreement or preserve management plan may be accepted by the Committee only if the amendments will not negatively impact the overall natural heritage values present on the property.

11. Dedicated preserve/servitude signs shall be posted at each entrance and along its boundary at or near 100-yard intervals.

12. The LDWF Natural Areas Preserve Committee shall review each dedicated preserve and servitude management plan every 5 years to ensure adequate protection and/or restoration efforts are being followed.

13. Penalties and enforcement. LDWF will arrange meetings with the servitude owner and/or adjacent landowners as necessary to discuss any violations of the preserve or servitude agreement. Reparation by the violator shall be documented, course of action agreed on, deadline for compliance determined, all parties informed of required restoration action and compliance deadline, and any restoration work is inspected and documented.

14. Servitudes may be transferred to another qualified organization or agency if LDWF is no longer able to meet its servitude stewardship responsibilities.

F. Additional information. For more information on Natural Areas Dedication and Conservation Servitudes, contact the following office: Department of Wildlife and Fisheries, Louisiana Natural Heritage Program, P. O. Box 98000, Baton Rouge, LA 70898-9000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1869.

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 Patricia Faulkner, Natural Heritage Program, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., January 6, 2009.

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries 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

**To receive and consider Notice of Intent on Control of Nuisance Wild Quadrupeds** was handled by Mr. Scott Durham. He stated that historically high deer density was handled through hunting seasons, DMAP and LADT programs. But there are agriculture producers having issues with deer depredation and this proposal would allow for deer depredation permits to be used off-season. The permit could be used by agriculture and commercial producers. The permit would be tightly regulated, commented Mr. Durham. To qualify for the permit, a site inspection would be conducted by an LSU Extension Agent or an Office of Agriculture and Forestry Crop Specialist and damage would need to be 25 percent or greater. The permit could only be used during daylight hours only and all meat would be salvaged. Only antlerless deer or unbranched antlered deer would be permitted to take. The Enforcement Division would run background checks on anyone requesting the permit and the deer program staff would have to concur on the request also. Louisiana was the only state out of the southeast that did not have a deer depredation permit, added Mr. Durham. The soybean farms in the delta region would be an area that could utilize the permit when no other means worked. Chairman Morrow asked if the proposal was to allow trapping of does during the closed season when they cause damage to crops. Mr. Durham stated it was to kill the does under highly controlled circumstances, not trap. Commissioner Oats made a motion to adopt the Notice of Intent and Commissioner Sagrera seconded the motion. The motion passed with no opposition.

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

#### NOTICE OF INTENT

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission do hereby advertise their intent to amend the rules for control of nuisance wild quadrupeds.

## **Title 76**

### **WILDLIFE AND FISHERIES**

#### **Part V. Wild Quadrupeds and Wild Birds**

##### **Chapter 1. Wild Quadrupeds**

###### **§125. Control of Nuisance Wild Quadrupeds**

A. This rule applies only to the control of the wild quadrupeds listed below and ONLY when they are conclusively proven to be creating a nuisance or causing damage to property. The burden of establishing that the animal in question is causing the property damage shall rest with the property owner.

B. The following wild quadrupeds may be taken year-round without permit by the property owner or his designee, with written landowner permission, but only by trapping or shooting during legal daylight hours:

1. coyote;
2. armadillo;
3. nutria;
4. beaver;
5. skunks; and
6. opossums.

C. Squirrels, rabbits, foxes, bobcats, mink, otter, muskrat, raccoons and any of the other species listed above may be trapped alive and relocated to suitable habitat without permit provided the following conditions are met.

1. Written permission is obtained from the property owner where the animals are to be released and such written permission is carried in possession while transport and release activities are taking place.

2. Animals are treated in a responsible and humane manner and released within 12 hours of capture.



D. Traps shall be set in such a manner that provides the trapped animal protection from harassment from dogs and other animals and direct sun exposure.

E. Nuisance animals listed above may be so controlled by the property owner or his designee with written landowner permission, to prevent further damage.

F. Property owners must comply with all additional local laws and/or municipal ordinances governing the shooting or trapping of wildlife or discharge of firearms.

G. No animal taken under this provision or parts thereof shall be sold. A valid trapping license is required to sell or pelt nuisance furbearers during the open trapping season.

H. No species taken under the provisions of this rule shall be kept in possession for a period of time exceeding 12 hours.

I. This rule has no application to any species of bird as birds are the subject of other state and federal laws, rules and regulations.

J. Game animals, other than squirrels and rabbits, may only be taken by hunting during the open season under the conditions set forth under Title 56 of the Louisiana Revised Statutes and the rules and regulations of the Department of Wildlife and Fisheries.

K. A permit may be issued to landowners or their designees to take white-tailed deer during the closed season when deer are causing substantial damage to commercial agricultural crops or orchards. Crops or orchards of less than 5 acres will not be considered for permits unless alternative exclusionary methods, including electric fencing, have been attempted and proven unsuccessful. Loss of 25 percent or more of the expected production or value of a crop must be documented by a Louisiana Department of Agriculture and Forestry crop specialist or Louisiana State University Cooperative Extension Service agent. Emergency deer removal permits may be issued by Department of Wildlife and Fisheries Wildlife Division with approval by the Deer Program Manager and Enforcement Division. Landowners or their designees may take only the number of deer recommended by a Department of Wildlife and Fisheries biologist and specified on the permit. Only antlerless or unbranched antlered deer are legal for removal. All deer taken under this permit must be tagged in a manner specified on the permit before being moved from the site of the kill. Deer may only be taken during daylight hours and all deer meat will be salvaged and donated to a recipient or charitable organization approved by the Department of Wildlife and Fisheries. Biological samples may be requested by Department of Wildlife and Fisheries biologists for research and health monitoring purposes.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, 56:6(10), and (15), R.S. 56:112, et seq.

HISTORICAL NOTE: Promulgated by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:2570 (December 2002), repromulgated LR 29:51 (January 2003), 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. Kenneth Ribbeck, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., January 6, 2009.

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

On the next item, **To receive and hear Public Comments on the 2009 Turkey Seasons and General and WMA Turkey Hunting Regulations**, Commissioner Oats made a motion to amend the agenda to not only receive and hear public comments, but to **Consider Action on the Notices of Intent**. Commissioner Segrera seconded the motion and it passed with no opposition. Mr. Fred Kimmel stated the protocol called for ratification at this meeting and was inadvertently left off. On the first Notice of Intent on General and WMA turkey hunting regulations, the Wildlife Division received no public comments on the minor changes made from last year and no amendments were proposed. Hearing no questions, Commissioner Oats made a motion to adopt, seconded by Commissioner Segrera and unanimously approved. The second Notice of Intent was on the turkey seasons and the Wildlife Division received 1 written comment in support and 1 written comment opposed to the seasons. Also, 1 person spoke at a recent Commission Meeting and requested an earlier season. The season dates will be Area A - March 28 to April 26, Area B - March 28 to April 19 and Area C - March 28 to April 12. Again, there were no amendments proposed to the original Notice of Intent. A motion to adopt was made by Commissioner Segrera, seconded by Commissioner Mouton and approved with no opposition.

**Public Hearing on Amended Notice of Intent for Shark Harvest Rules** began with Mr. Harry Blanchet stating this was a requirement on an amendment to the Notice of Intent that the Secretary ratified during September. At the October Commission Meeting, the Commission ratified that amendment which required a public hearing be held. Mr. Blanchet reminded the Commission, public comments were made at their August and October

Meetings. Chairman Morrow then asked if there were any public comments to be made and none were heard. Mr. Blanchet advised that the public comment period would close on December 4, 2008 at which time the proposal would go to the Legislative Oversight Committees.

**To receive and consider Resolution and Notice of Intent – Oyster Seed Ground Vessel Permit Renewal and Re-Issuance** was the first of two agenda items for Ms. Karen Foote. The 2 actions were related to Act 922 of the 2008 Legislature Session. Ms. Foote added that staff worked very closely with the Oyster Task Force and its Committee on Public Oyster Seed Ground Vessel Permits. This legislation was industry initiated in an effort to limit vessels on the public seed grounds. For the renewal permit, if you had a permit and you are still the same person with the same boat, you can get a new permit. The re-issuance permit would be for those fishermen that had a permit but their vessel was no longer in service, they would be able to relinquish their old permit and apply for a new permit. If a person acquired a vessel and it was listed on a valid permit and the applicant can verify that the vessel was titled in the new applicant's name, then they can apply for a permit. Chairman Morrow then asked for public comment.

Mr. John Tesvich, Oyster Task Force, stated he was in support of this action adding that he was Chairman of the Work Group that drafted the proposal with the Department. The Oyster Task Force approved the proposal and he could answer any questions if needed.

Hearing no questions, Commissioner Sagrera made a motion to adopt the Resolution and Notice of Intent and it was seconded by Commissioner Oats. The motion passed with no opposition.

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

## RESOLUTION

Oyster Seed Ground Vessel Permit Renewal and Re-Issuance  
Louisiana Wildlife and Fisheries Commission  
November 6, 2008

WHEREAS, Act 922 of the 2008 Regular Session of the Louisiana Legislature (R.S. 56:433.1) established that any oysters taken from the public natural reefs or the oyster seed grounds or reservations, except those in Calcasieu Lake or Sabine Lake, shall be placed only on a vessel which has an oyster seed ground vessel permit issued exclusively by the department pursuant to rules and regulations promulgated by the Commission, and

WHEREAS, R.S. 56:433.1 further established that the oyster seed ground vessel permit requirement will be applicable to license year 2009 and thereafter, and shall become null and void and of no effect beginning on November 15, 2013, and

WHEREAS, R.S. 56:433.1 directs the Wildlife and Fisheries Commission, with consultation from the Louisiana Oyster Task Force, to promulgate and adopt rules and regulations to provide for the administration of oyster seed ground permits, renewals of permits, and disposition of permits which are no longer attached to a vessel, and

WHEREAS, consultation with the Louisiana Oyster Task Force has occurred on numerous occasions concerning the development of such rules and regulations for the administration of such permits,

THEREFORE BE IT RESOLVED, the Louisiana Wildlife and Fisheries Commission does hereby promulgate the attached Notice of Intent to establish rules concerning the renewal and re-issuance of Oyster Seed Ground Vessel Permits.

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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 promulgate a Rule on renewal and re-issuance of Oyster Seed Ground Vessel Permits. Authority for adoption of this proposed rule is through R.S. 56:433.1.

### **Title 76**

### **WILDLIFE AND FISHERIES**

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

### **Chapter 5. Oysters**

#### **§527. Oyster Seed Ground Vessel Permit Renewal and Re-Issuance**

A. Renewal Permit: A holder of a valid permit for the current license year may apply for a renewal of the permit for the immediately following license year beginning on November 15 of the current license year or at any time during the immediately following license year, provided the holder and the vessel are identical to the holder and vessel listed on the permit for the current license year.

B. Re-Issuance Permit: The following persons shall be eligible to apply for a Re-issuance Permit:

1. A holder of a valid permit for the current or immediately preceding license year whose vessel listed on the permit is no longer in-service for the commercial harvest of oysters on the public seed grounds may apply for a re-issuance permit in the holders name for another vessel. The current permit shall be relinquished to the Department prior to obtaining a re-issuance permit.

2. A person acquiring a vessel listed on a valid permit for the current or immediately preceding license year may apply for a re-issuance permit for the vessel in the applicant's name upon providing documentation to the Department that the vessel is titled in the applicant's name. Documentation shall be in the form of a bill of sale, judgment of possession, or act of donation. The current permit shall be relinquished to the Department prior to obtaining a re-issuance permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:433.1.

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. Patrick Banks, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., January 6, 2009.

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries 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 second item for Ms. Karen Foote was **To receive and consider Resolution and Notice of Intent – Oyster Seed Ground Vessel Permit Appeals Board**. This proposal detailed the Appeals Board which was mentioned in an August Notice of Intent and the law. The Department may deny permits, but the law wanted the Department to consider hardship cases and the Commission would provide how that Board would work. The Board would consider all provided information and then make a recommendation to the Secretary for his consideration. Ms. Foote then explained the different hardship options the Board could consider. The Appeals Board, in open meetings, would provide their written

recommendation based on an affirmative vote of the majority of the Board to the Secretary. Chairman Morrow stated the Commission received a letter from the Oyster Task Force on certain amendments and asked if they were incorporated. Ms. Foote stated all of the Task Force amendments were included except for the grammatical change. Commissioner King asked if the Appeals Board existed now and Ms. Foote answered no, the members had to have a permit. Then Commissioner King asked who would appoint the members and how many would there be. Ms. Foote stated the different oyster groups listed in the law would submit their appointees. Mr. Puckett stated there would be 9 members from a list of oyster organizations.

Mr. John Tesvich, Oyster Task Force, stated he was in support of the Notice of Intent and would answer any questions.

Hearing no questions, Commissioner Mouton made a motion to adopt the Resolution and Notice of Intent. The motion was seconded by Commissioner King and unanimously approved.

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

#### RESOLUTION

Oyster Seed Ground Vessel Permit Appeals Board  
Louisiana Wildlife and Fisheries Commission  
November 6, 2008

WHEREAS, Act 922 of the 2008 Regular Session of the Louisiana Legislature (R.S. 56:433.1) established that any oysters taken from the public natural reefs or the oyster seed grounds or reservations, except those in Calcasieu Lake or Sabine Lake, shall be placed only on a vessel which has an oyster seed ground vessel permit issued exclusively by the department pursuant to rules and regulations promulgated by the Commission, and

WHEREAS, R.S. 56:433.1 further established that the oyster seed ground vessel permit requirement will be applicable to license year 2009, and

WHEREAS, R.S. 56:433.1 further established an Oyster Seed Ground Vessel Permit Appeals Board composed of Louisiana licensed oyster harvesters who hold such vessel permits to hear appeals of oyster seed ground vessel permit applications denied by the Department of Wildlife and Fisheries, and,

WHEREAS, R.S. 56:433.1 directs the Wildlife and Fisheries Commission, with consultation from the Louisiana Oyster Task Force, to promulgate and adopt rules and regulations to provide for the administration of oyster seed ground permits, renewals of permits, and disposition of permits which are no longer attached to a vessel, and

WHEREAS, consultation with the Louisiana Oyster Task Force has occurred on numerous occasions concerning the development of such rules and regulations for the administration of such permits,

THEREFORE BE IT RESOLVED, the Louisiana Wildlife and Fisheries Commission does hereby promulgate the attached Notice of Intent to establish rules concerning the operations of the Oyster Seed Ground Vessel Permit Appeals Board.

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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 promulgate a Rule on the Appeals Board for Oyster Seed Ground Vessel Permits. Authority for adoption of this proposed rule is through R.S. 56:433.1.

### **Title 76**

### **WILDLIFE AND FISHERIES**

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

### **Chapter 5. Oysters**

### **§529. Oyster Seed Ground Vessel Permit Appeals Board**

A. A person whose application for an Oyster Seed Ground Vessel Permit is denied by the department may appeal the denial to the Oyster Seed Ground Vessel Appeals Board. Based upon the following procedure and requirements, the Appeals Board may recommend to the Secretary that a permit be issued.

1. Hardship: The Appeals Board may recommend issuance of an Oyster Seed Ground Vessel Permit based on a decision of hardship.

a. An applicant submitting an appeal based upon the denial of an initial application submitted on or before December 31, 2009 for a Seed Ground Vessel

Permit shall demonstrate by clear evidence that all of the following requirements have been met:

i. The applicant legally harvested oysters from the public seed grounds, either for market or seed, during at least two (2) of the license years 2004, 2005, 2006, 2007, and 2008. This evidence may be trip ticket information or notarized written statements of two (2) Louisiana licensed oyster harvesters.

ii. If the applicant is an individual, the applicant shall have held a Louisiana Commercial Fishing License and a Louisiana Oyster Harvester's License for at least two (2) of the license years 2004, 2005, 2006, 2007, and 2008.

iii. One of the following conditions prevented the applicant's ability to otherwise meet the statutory eligibility requirements for a permit:

- (a). Divorce proceeding;
- (b). Bankruptcy or bank foreclosure;
- (c). Dissolution of an oyster harvesting business partnership;
- (d). Applicant's former or current vessel was the subject of a lawsuit;
- (e). Military service;
- (f). Serious medical condition or death;
- (g). Applicant's former or current vessel was damaged or destroyed in a fire, natural disaster, sinking, or other accident.

b. An applicant submitting an appeal based upon the denial of a renewal or re-issuance permit application, shall provide clear evidence that one of the following prevented the applicant from otherwise meeting the eligibility requirements for a renewal or re-issuance permit:

- i. Military service;
- ii. Serious medical condition or death;
- iii. Applicant's former or current vessel was damaged or destroyed in a fire, natural disaster, sinking, or other accident.



2. Eligibility: The Appeal Application for a permit based upon eligibility must set forth in detail the facts the applicant is contending meet the eligibility requirements for a permit under the eligibility requirements provided in La. R.S. 56:433.1 and the rules promulgated pursuant thereto. The appeal application shall include the application submitted to and denied by the Department.

3. The Appeal Application shall include the applicant's name, address, tax identification or social security number, date of birth or date of incorporation, and vessel registration or documentation number.

4. No other appeals shall be considered by the Board unless additional rules or regulations are developed to address different circumstances.

5. After consideration, the Appeals Board may recommend to the Secretary that the Department issue a permit, but only upon affirmative vote of a majority of the appointed members of the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:433.1.

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 Patrick Banks, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., January 6, 2009.

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries 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 Commissioners agreed to hold the **March 2009 Meeting** on Thursday, March 5, 2009, beginning at 9:30 a.m. at the Baton Rouge Headquarters.

Before adjourning, Commissioner Oats congratulated Mr. Joe Macaluso for his Lifetime Achievement Award he received from the Louisiana Outdoor Writers Association.

Next agenda item was to receive **Public Comments**. Chairman Morrow stated he received a letter on the new tagging regulations and the writer stated “this was the most stupid, unreasonable and idiotic piece of trash regulation”. He asked that the letter be placed in the record.

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

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Robert J. Barham  
Secretary

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