

LOUISIANA WILDLIFE AND FISHERIES COMMISSION

MINUTES

October 7, 2010

STEPHEN J. OATS
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
OCTOBER 7, 2010

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MINUTES OF THE MEETING
OF
LOUISIANA WILDLIFE AND FISHERIES COMMISSION

Thursday, October 7, 2010

Chairman Stephen J. Oats presiding.

Stephen Sagrera
Ann Taylor
Mike Voisin

Secretary Robert Barham was also present.

Commissioners Ronny Graham and Patrick Morrow were absent from the meeting.

Chairman Oats called for a motion for approval of the **August 20, 2010 and September 2, 2010 Commission Minutes**. A motion for approval was made by Commissioner Voisin and seconded by Commissioner Sagrera. The motion passed with no opposition.

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

To receive and hear Update on Oil Spill and Current Response Efforts began with Secretary Robert Barham stating this event was now passed the time of reaction and moved into the assessment period. Staff continues to have meetings with BP, one was scheduled that day on an application for seafood safety. Secretary Barham added that he has not received a response from BP on the direct license sale loss. The initial application was for \$2.5 million, but new numbers showed additional losses. The assessment mode will continue for the foreseeable future. Commissioner Voisin reminded Secretary Barham that oyster tag sales were down significantly as well. Secretary Barham stated that has been included in the claims.

To receive presentation on Litter Enforcement Officer of the Year Award was handled by Lt. Col. Jeff Mayne. He stated that the Enforcement Division takes litter enforcement as a serious crime. During the last fiscal year, agents issued over 1,000 littering violations, of which about 400 were for gross littering, which lead to the arrest and conviction of many individuals and the clean-up

of many areas. Each year the Enforcement Division honors the Litter Enforcement Officer of the Year and Executive Director Leigh Harris with the Department's partner Keep Louisiana Beautiful was attending the meeting to present the award. Ms. Harris began stating this was the 7th year Keep Louisiana Beautiful has had the pleasure to recognize the officer of the year. She mentioned that the program was all about changing attitudes and behaviors when it came to litter, trash and illegal dumping. One of the key components to education was enforcement since people have to believe there is enforcement of the law. In 2007, a survey of offenders showed they knew there are litter laws but did not think they would be cited. With the actions of Keep Louisiana Beautiful, the Enforcement Agents and those of local agents, Ms. Harris felt some attitudes and behaviors were changing. She then presented the winner of the 2009-2010 Litter Enforcement Officer of the Year Award to Senior Agent Byron Cammack.

To receive and hear Enforcement & Aviation Reports/September began with Lt. Col. Keith LaCaze stating highlights during the month were the opening of the teal and dove seasons and recreational fishing. The activities for the month showed a total of 1,094 citations and 368 written warnings issued and agents helped with 45 public assists. He then noted 16 cases of taking over the limit of bass was made in Region 2 and there were 36 citations for hunting dove over bait with 5 citations issued for the placement of bait. There were 7 boating accidents reported during September with 8 injuries and 0 fatalities. The Department's three planes flew a total of 108 hours for the month. News Releases discussed included a guilty plea entered on deer hunting violations (the hunter used snares) in Evangeline Parish; deer in closed season case made in Concordia Parish; a rescue in Timbalier Bay from a shrimp vessel that was sinking; and an over the limit bass case from East Carroll Parish. Then Lt. Col. LaCaze stated the training academy was ongoing with 16 cadets.

The next agenda item, **To receive and consider Notice of Intent on Assignment of Hull Identification Numbers to Undocumented Vessels Manufactured in Louisiana** was handled by Captain Rachel Zechenelly.

She stated that the Notice of Intent in the packets was different from the copy received in the mail. The action was to assist manufacturers that were not eligible to receive hull identification numbers from the U.S. Coast Guard. Those vessels are generally sold to consumers to finish themselves. The manufacturers have to meet certain eligibility standards in order to receive the hull identification numbers. To be eligible, the manufacturers have to be able to produce a minimum of 10 vessels annually and they also have to have a bond or a type of security. Once the manufacturer submits their application and meets the eligibility, the Department

will go look at the facility and then issue a block of hull identification numbers. After the manufacturers receive the numbers, they have to place it on the vessel before it leaves their facility, give a manufacturer's statement of origin to the purchaser, and maintain a log of the boats produced and which hull identification number was assigned to it. Agents will have the ability to inspect the facilities when needed. Again, Captain Zechenelly felt this action was to help the manufacturers. Hearing no questions, Commissioner Voisin made a motion to adopt the Notice of Intent, 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 intent to enact rules governing the assignment of hull identification numbers to undocumented vessels manufactured in Louisiana that do not qualify for hull identification number assignment by the United States Coast Guard.

Title 76

WILDLIFE AND FISHERIES

Part XI. Boating

Chapter 3. Boating Safety

§309. Assignment of Hull Identification Numbers to Undocumented Vessels Manufactured in Louisiana

A. The following regulations shall provide for the assignment of hull identification numbers (HIN) to undocumented vessels manufactured in this state that do not qualify for the assignment of such numbers by the United States Coast Guard.

B. The manufacturer(s) of such vessels shall submit an Application for Eligibility requesting approval from the Department. The manufacturer must be capable of producing a minimum of ten (10) vessels annually and must provide Proof of

Security in one of the following forms to be eligible to receive the HIN's:

1. Pre-payment of a minimum of one block of ten HIN numbers, or

2. Bond, letter of credit, or other security, in an amount and form acceptable to the Secretary, determined on a case by case basis.

C. Upon receipt of an Application for Eligibility from a manufacturer, an agent from the Enforcement Division shall conduct an initial inspection of the manufacturer's vessel fabrication location.

D. Upon favorable inspection, the manufacturer(s) shall be approved to receive HIN's issued in blocks of ten individual HINs upon the manufacturer's request. The Department shall charge a fee of twenty-five dollars (\$25) per issued HIN.

E. Manufacturer(s) receiving department-issued HIN, as described in this section, shall comply with the following procedures:

1. The HIN must be stamped on the vessel before it leaves the manufacturer's facility.

2. The manufacturer(s) must produce a Manufacturer Statement of Origin (MSO) as described in R.S. 34:852.11. The manufacturer shall provide the purchaser and/or transferee with the original MSO.

3. Manufacturer(s) must maintain records of all vessels stamped with HIN from the block of numbers issued to the manufacturer by the department. These records must include the date the vessel was stamped, vessel make, principle vessel hull material, vessel length, vessel type, HIN stamped on vessel, date vessel was sold or ownership transferred, and name and address of the transferee. These records shall be kept in the form of a log book issued by the Department. The log book shall be returned to the Department upon completion. Manufacturers must maintain a copy of the log book for three years.

F. Agents from the Enforcement Division may inspect the manufacturer(s)' facility, records, and/or vessels to verify that the manufacturer is maintaining compliance with the stated procedures.

G. Violation of this section shall be fined not less than five hundred dollars (\$500); but no more than one thousand dollars (\$1000), or imprisoned for not more than thirty days, or both, for each violation as provided in R.S. 34:852.22.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:852.13.B.

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

The Secretary of the Department of Wildlife 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 comments relative to the proposed rule to Lt. Col. Jeff Mayne, Department of Wildlife and Fisheries, Wildlife Division, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, January 6, 2011.

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).

Stephen J. Oats
Chairman

Dr. Jim LaCour began the next agenda item, **To receive and consider Notice of Intent to amend the Wildlife Rehabilitation Program** explaining that rehabilitators were lay persons permitted by the Department to receive injured wildlife, rehabilitate them and then release them. These injured wildlife come from the public, the Department and the LSU Vet School. The rehabilitators fulfill a niche that allows these animals to be taken off the roads and eventually get them back into the wild. There are about 68 rehabilitators in the state and Mr. Emile LeBlanc inspects their facilities. These inspections have lead to the staff wanting to amend the regulations. The first change was not allowing a person that wants to be a wildlife rehabilitator to become one if they have a wildlife violation within the previous 5 years. In an attempt to bring up the standards to a national level, the Department suggests using a test provided by the International Wildlife Rehabilitation Association or an approved test. The next

change would be to eliminate special training for rabies vector species (raccoons, skunks, foxes, coyotes). Many rehabilitators only want to work with birds or squirrels, but when presented with these animals, they should know how to handle them with the possibility of having rabies. Next change was adding the language "animals should be determined medically non-releasable by a licensed veterinarian". Staff proposed that licensed rehabilitators keep on file a signed document from the landowner that gives them permission to release animals on their property. Required information will be the name of landowner, contact information, physical address and size of property, and duration of permission. The reason for the requirement was to make sure the rehabilitators were releasing the animals with permission, to follow disease outbreaks and to follow up on complaints from neighbors of rehabilitators. The next amended requirement would be to get the rehabilitator to keep on-site a permanent record of every animal admitted in order to have contact information on animals that are diseased and to confirm numbers on reports. Dr. LaCour noted that the rehabilitators were instrumental during the oil spill in handling the injured and/or oiled wildlife. Chairman Oats commented that keeping records in perpetuity was a long time and suggested reviewing that language in the future. Commissioner Voisin added that keeping records in perpetuity was found in 2 spots in the proposal. Hearing no further questions, Commissioner Sagraera made a motion to adopt the Notice of Intent and it was seconded by Commissioner Voisin. 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 Wildlife and Fisheries Commission does hereby amend the regulations for the permitting and operation of wildlife rehabilitators.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

131. Wildlife Rehabilitation Program

A. Purpose

1. The purpose of this Section is to establish rules for the permitting and operation of wildlife rehabilitators.

B. Definitions

Rabies vector species (RVS) - mammalian species defined by Louisiana Department of Wildlife and Fisheries (LDWF) as potential carriers of the rabies virus including, but not limited to the following:

- a. raccoons;
- b. foxes;
- c. coyotes;
- d. skunks; and
- e. bats.

Subpermittee - person authorized to conduct rehabilitation activities under the supervisory responsibility of a wildlife rehabilitator.

Supervisory responsibility - to direct actions and accept responsibility for the actions of a named individual engaged in wildlife rehabilitation activities.

Wildlife rehabilitation - activity that provides housing, treatment and temporary care of injured and/or orphaned indigenous animals with the goal of subsequent release of those healthy animals to appropriate habitats in the wild.

Wildlife rehabilitator - a person who is permitted by the LDWF to engage in the practice of wildlife rehabilitation.

C. Permits

1. It shall be unlawful for any person to keep, hold or possess in captivity any sick, injured or orphaned wildlife (except fish) or otherwise engage in wildlife rehabilitation without first obtaining at no charge, a LDWF Wildlife Rehabilitation Permit (WRP). In addition to the WRP, a United States Fish and Wildlife

Service (USFWS) rehabilitation permit must be in possession to rehabilitate species covered by the Migratory Bird Treaty Act or Endangered Species Act.

2. A WRP authorizes the permittee to transport; temporarily possess; rehabilitate; transfer to a practicing veterinarian or another wildlife rehabilitator for treatment or euthanasia; release; or euthanize an injured, diseased, disabled, orphaned or otherwise debilitated live wildlife specified on their permit. Animals held under a WRP shall not be displayed for educational purposes or otherwise displayed or exposed to the public unless that individual animal has been permitted by LDWF or USFWS for that purpose.

D. Exemptions

1. Employees of the LDWF are exempt from all state wildlife rehabilitation permit requirements while they are on duty.

2. Licensed veterinarians are exempted, provided they are treating an animal under the authorization of a wildlife rehabilitator or LDWF employee, or are treating an animal taken in from the public, provided the animal is released into an appropriate habitat or accepted by a wildlife rehabilitator within 72 hours after receiving.

E. Permit Requirements

1. All applicants must be 18 years of age or older.

2. Anyone who has been convicted of a Class II or greater wildlife violation in Louisiana, or the equivalent in another state within the past ~~three (3)~~ five (5) years, or has been convicted of a felony in Louisiana or another state, shall not be eligible for a WRP.

3. All applicants must complete a WRP application, liability release, and financial responsibility statement.

~~4. The applicant must achieve a minimum score of 80 percent on either the LDWF general wildlife rehabilitation or Rabies Vector Species examination. A passing score on the general wildlife rehabilitation exam is required before an individual and named subpermittees will be issued a WRP excluding RVS. A passing score on the Rabies Vector Species examination is required for a WRP that authorizes rehabilitation of RVS.~~

5 4. Prior to licensure or renewal, all applicants must show proof of completion of a LDWF-approved wildlife rehabilitation

course and must be currently certified under the approved organization's guidelines. All applicants must attend and successfully complete a LDWF approved wildlife rehabilitation class prior to or within 6 months of receiving their WRP. Failure to attend and provide proof of successful completion e of the class course and subsequent continuing education requirements will result in non-licensure or the revocation of the WRP.

6 5. All applicants must provide verification of having access to veterinary services by submitting a Statement of Veterinary Support Form provided by LDWF.

7 6. All facilities where animals will be housed or maintained will be inspected by LDWF prior to receiving a WRP.

F. General Rules

1. The WRP will not exempt the holder from regulations of other state, federal, parish or municipal governments or agencies.

2. Sale of any animal held under a WRP is prohibited.

3. No animal held under a WRP may be used for human consumption, unless specifically approved.

4. No Louisiana S1-ranked species may be held under a WRP, without written authorization from the LDWF Wildlife Division.

5. No animal intended for wildlife rehabilitation may be imported into or exported out of the state of Louisiana without written authorization by LDWF Wildlife Division.

6. The WRP does not authorize the possession of white-tail deer, bears, wild turkeys, or alligators, ~~or rabies vector species (RVS)~~ unless specifically stated on the permit.

7. Request for an Extension

a. WRP holders shall not possess a non-migratory bird for more than 90 days, other injured wildlife longer than 45 days, or other orphaned wildlife no longer than required to prepare the animal for release, but not to exceed 120 days, except that a permit holder may submit a written request for extension of possession if:

i. the specified animal will likely be releasable after the time frame listed above but is currently non-releasable because of biological reasons; or

ii. a licensed veterinarian determines, due to medical reasons, the animal requires additional rehabilitation time.

b. All extension requests should include a proposed release date and be submitted in writing to LDWF Wildlife Division. The permit holder may continue to house the specified animal while LDWF is reviewing the request. LDWF will provide a written response and include specific dates and instructions regarding disposition of the animal.

8. WRP holders must ensure that animals are exposed to minimal handling and other human contact, except as necessary to maintain sanitary conditions, provide food and water, provide medical care, and prepare the animal for release.

9. Animals that are determined medically non-releasable by a licensed veterinarian, exhibit signs of adjusted life in captivity and pose minimum zoonotic disease potential may be considered for educational animal designation. A LDWF Special Purpose and Possession permit application must be submitted to LDWF Wildlife Division by the end of the 90 day rehabilitation period to be considered for educational animal status.

10. All WRPs shall expire on December 31 of the year of issue unless otherwise noted.

11. Permits are non-transferable but may include up to five listed subpermittees. Subpermittees are authorized to transport, house, and provide care for animals away from the wildlife rehabilitation facility. A person caring for animals at the wildlife rehabilitation facility is not required to be a subpermittee. WRP holders desiring to add subpermittees, must submit a subpermittee application form. Subpermittee forms will only be accepted by the LDWF at the original time of permitting, renewal and during June 1-30 each year. Individuals may be removed as subpermittees at any time of the year. A subpermittee removal form must be submitted. All subpermittees:

a. must be 18 years of age or older;

b. are exempt from the testing requirement but are subject to all other rules governing WRP holders including animal housing and care requirements;

c. must work under the direction and supervision of the WRP holder;

d. may be removed at any time by the supervising WRP holder or LDWF and in such cases must surrender any animals to the WRP holder or LDWF;

e. must have a valid subpermittee permit on the premises where animals are housed if animals are housed away from the supervising WRP holder's facility; and

f. must not transport or possess RVS species away from the supervising WRP holder's facility. ~~unless they successfully pass the RVS examination.~~

12. WRP holders are subject to non-renewal or revocation of their WRP if LDWF determines that any of their listed subpermittees are not properly supervised or fail to abide by applicable WRP rules.

13. LDWF provides no financial or material assistance to wildlife rehabilitators.

14. Euthanasia of any animal held under a WRP is to be performed under the guidelines adopted by the American Veterinary Medical Association (AVMA).

15. Animals held under a WRP shall not be released on private land without written permission of the landowner or landowner designee. Licensed rehabilitators shall keep on file for perpetuity, an original document signed by the landowner, permitting the licensed rehabilitator to release animals upon their property. This document should include the name, address and phone number of the landowner, the physical location of the property, the size of the property (in acres), and the duration of the permission to release rehabilitated animals there. This document shall be presented upon request for review by LDWF personnel. A copy of all landowner permission documents shall be submitted to LDWF with the annual WRP report.

16. Animals held under a WRP shall not be released on public land without first obtaining written permission from the governmental entity owning or administering the property.

17. All permitted animals and facilities in which they are housed shall be maintained within the minimum standards as provided by the National Wildlife Rehabilitators Association (NWRA)

and International Wildlife Rehabilitation Council (IWRC) publication of Minimum Standards for Wildlife Rehabilitation.

18. It is strongly recommended that any wildlife rehabilitator working with rabies vector species receive pre-exposure rabies immunization.

G. Reporting and Renewal Requirements

1. All animals held under a WRP must be fully documented on Wildlife Rehabilitation Report Form provided by LDWF.

2. A permanent record of each animal admitted by a permitted rehabilitator must be maintained. This record should include the name, address, phone number and email address of the person finding the animal, species, age, sex, date of admission, treatment performed, method of euthanasia if performed or date and location of release. These records must be maintained in perpetuity and must be available for inspection by LDWF personnel.

~~2~~ 3. Wildlife Rehabilitation Report Forms for the permit period must be submitted to the LDWF no later than 30 days following the expiration of the permit and the WRP will not be renewed until these forms are received. Reports will cover the period from December 1 of the prior license year to November 30 of the current license year. Any wildlife rehabilitator who does not submit his/her report by the 30th day after the expiration date of the WRP, or who submits a false or materially incomplete report intentionally may be issued a citation for violation of Louisiana Wildlife and Fisheries Commission rules and regulations. If the citation does not result in a conviction, plea of guilty, or plea of no contest, the wildlife rehabilitator may be considered for reapplication upon receipt of the late wildlife rehabilitation form(s).

~~3~~ 4. Report forms must be current and shall be available for inspection at all times by Wildlife Enforcement Agents or any other authorized representatives of the Department.

~~4~~ 5. Upon expiration of a WRP and if the WRP has not been renewed, all animals held under the permit must be disposed of by transferring to a currently licensed WRP, released into the wild, or euthanized.

H. Penalties

1. Violations of this rule constitutes a Class 2 offense.

2. Violation of these rules may result in citation and/or revocation of the WRP.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, R.S. 56:6 (10), and (15), and R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 36:852 (April 2010), amended LR .

The Secretary of the Department of Wildlife 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 comments relative to the proposed rule to Mr. Emile LeBlanc, Department of Wildlife and Fisheries, Wildlife Division, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, December 2, 2010.

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).

Stephen J. Oats
Chairman

To receive and hear Overview on Gulf Coastal Plain WMAs began with Mr. Czerny Newland stating he was a biologist manager in charge of the Gulf Coastal Plain(GCP) WMAs. The Wildlife Division recently reorganized and now there are 2 major ecoregions in the state, the GCP areas and the Mississippi Alluvial Valley. The principle difference between the 2 ecoregions was the soil type which directly affects the habitat in the area. The GCP provides a greater variety of soil and habitat types than does the Mississippi Alluvial Valley. A location map of the 27 GCP WMAs was shown and Mr. Newland noted they vary in size from 129 acres to 105,000 acres. There are 3 types of WMAs: Department owned, leased areas and combined ownership. Total WMA acres enrolled in the management program was 550,135. Eleven of the WMAs, 131,201 acres, were Department owned. The leased areas were the largest group of WMAs (13 WMAs) and there was no cash paid to the lessors. The reasons

for no charge on these areas were to provide a public service, being exempted from property taxes if a 30 year lease was signed and the companies receive maintenance services. The combined ownership group consists of 42,027 acres. There are 5 major habitats represented in the 27 GCP WMAs. These consist of pine upland, bottomland hardwood, marsh (both brackish and fresh), upland hardwood and cypress-tupelo swamp. The goal of the WMA system was to provide wildlife habitat and protect the wildlife populations of all species and then to manage game species in sufficient numbers to have a sustainable harvest. In addition to the regular hunts, special hunts (youth hunts and physically challenged hunters permit) are provided on the WMAs. The Department also encourages non-consumptive use for activities such as hiking, horseback riding, bicycling, bird watching, etc. Mineral development was growing on Loggy Bayou and Bayou Pierre WMAs and the Department should receive income from these mineral rights. Employees under Mr. Newland's supervision carry out the management of people and habitat on the WMAs. The variety of practices are implemented based on the WMA habitat type. Management on the leased areas has to be compatible with the lessor's land use goals. The number one practice on the pine uplands was prescribed burning which promotes the growth of native vegetation, helps control undesired vegetation and reduces the chances of wild fires. Planting occurs mostly on dove fields. Timber management on WMAs provides for the proper health of the forest, directly impacts the wildlife habitat and benefits wildlife. WMAs with impoundments requires the employees to regulate the water which will provide habitat for waterfowl, wading birds and shore birds. Another duty was working with threatened and endangered species, the feature species in the GCP area was the red-cockaded woodpecker. Road maintenance was an important job for the staff which involved the use of heavy equipment. Mr. Newland concluded stating the Department's WMAs were a premier program in the nation which provides a lot of recreation to a wide variety of people and protects a lot of wildlife habitat.

To receive and consider Declaration of Emergency and Notice of Intent on Fisheries Closures due to Oil Spill was handled by Mr. Marty Bourgeois. The first slide shown was a map of the areas closed to recreational fishing except for recreational and charter boat angling which represents about 1.5 percent of the saltwater areas of the state. The commercial areas closed represents about 7 percent of the saltwater areas of the state. This closure does not represent the harvest of oysters which was regulated by the Department of Health and Hospitals. The action would reaffirm the existing closures. Mr. Bourgeois hoped additional areas in the Barataria Basin would open once word from the FDA was received. NOAA recently advised of openings of adjacent offshore areas in the

Gulf of Mexico. Commissioner Voisin thanked Mr. Bourgeois for his report and then asked if samples were sent in from the Baratavia system. Mr. Bourgeois stated yes, the tissue samples were supplied. Mr. Randy Pausina commented that he just received an e-mail that said all samples passed the sensory test and was going for chemical testing. Commissioner Voisin asked what area were the samples from and Mr. Bourgeois showed 2 maps and the differences in closures. Commissioner Voisin asked if any samples were sent from the mouth of the Mississippi River. Mr. Pausina stated they have not been requested to submit those samples, but would push to open. Commissioner Voisin made a motion to approve the Declaration of Emergency and it was seconded by Commissioner Taylor.

Mr. Matt O'Bryan, owner of a shrimp dock in Venice, stated that the 7 percent area closed was about 80 percent of where the shrimp are located and they needed to be caught within the next 50 days. He noted there was a sense of urgency with the shrimp season since there was only a limited number of days to harvest the shrimp. Mr. O'Bryan mentioned it was hard to explain to his fishermen that it was okay for recreational and charter boat fishermen to fish but they cannot go shrimping in order to make a living. He suggested considering more targeted areas where the oil actually was. The opening of Redfish Bay would have a positive impact to about 30 families from the area. Commissioner Voisin asked if there was a way to slice the openings or did it need to be looked at as a whole. Mr. Pausina stated they have sliced the Baratavia already, but if there was the opportunity to do it, they would. The area at the mouth of the Mississippi River was "ground zero" with the oil spill, but the good news was there was a lot of water movement from the river and tides. The Department's goal has been to open everything possible as fast as possible. Chairman Oats commented to Mr. O'Bryan that the Commission and Department has been trying to open all areas possible, but when it comes to commercial openings, there are others responsible for those openings.

Hearing no further comments, the motion passed with no opposition.

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

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Closure
October 7, 2010

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under the authority of R.S. 56:6.1, the Wildlife and Fisheries Commission hereby closes all commercial fishing, effective immediately October 7, 2010, in the following area:

That portion of state inside waters south of the northern shore of Pass a Loutre and the Mississippi River Channel at 29 degrees 09 minutes 00 seconds north latitude westward to the western shore of Southwest Pass of the Mississippi River, and that portion of state outside territorial waters south of 29 degrees 12 minutes 40 seconds north latitude westward to 89 degrees 25 minutes 00 seconds west longitude, and that portion of state inside and outside territorial waters bounded by the following coordinates: 1) 29 degrees 15 minutes 00 seconds north latitude 89 degrees 32 minutes 00 seconds west longitude, 2) 29 degrees 13 minutes 40 seconds north latitude 89 degrees 33 minutes 00 seconds west longitude, 3) 29 degrees 18 minutes 00 seconds north latitude 89 degrees 48 minutes 00 seconds west longitude, 4) 29 degrees 20 minutes 00 seconds north latitude 89 degrees 48 minutes 00 seconds west longitude, and that portion of state inside and outside territorial waters north of 29 degrees 18 minutes 00 seconds north latitude and south of 29 degrees 22 minutes 00 seconds north latitude from 89 degrees 48 minutes 00 seconds west longitude westward to 89 degrees 52 minutes 00 seconds west longitude, and that portion of state inside waters north of 29 degrees 23 minutes 00 seconds north latitude and south of 29 degrees 30 minutes 00 seconds north latitude from 89 degrees 50 minutes 00 seconds west longitude westward to the eastern shore of the Barataria Waterway, and that portion of state inside and outside territorial waters bounded by the following coordinates: 1) 29 degrees 21 minutes 00 seconds north latitude 89 degrees 52 minutes 00 seconds west longitude, 2) 29 degrees 18 minutes 00 seconds north latitude 89 degrees 52 minutes 00 seconds west longitude, 3) 29 degrees 15 minutes 40 seconds north latitude 89 degrees 56 minutes 00 seconds west longitude, 4) 29 degrees 17 minutes 10 seconds north latitude 89 degrees 57 minutes 30 seconds west longitude, and that portion of state inside and outside territorial waters north of 29 degrees 08 minutes 15 seconds north latitude and south of 29 degrees 11 minutes 40 seconds north latitude from 90 degrees 03 minutes 00 seconds west longitude westward to 90 degrees 07 minutes 00 seconds west longitude.

Recreational fishing is open in all state inside and outside territorial waters, except in the following areas, where only recreational angling and charter boat angling is allowed: that portion of state inside and outside territorial waters bounded by

the following coordinates: 1) 29 degrees 15 minutes 00 seconds north latitude 89 degrees 32 minutes 00 seconds west longitude, 2) 29 degrees 13 minutes 40 seconds north latitude 89 degrees 33 minutes 00 seconds west longitude, 3) 29 degrees 18 minutes 00 seconds north latitude 89 degrees 48 minutes 00 seconds west longitude, 4) 29 degrees 20 minutes 00 seconds north latitude 89 degrees 48 minutes 00 seconds west longitude, and that portion of state inside and outside territorial waters north of 29 degrees 18 minutes 00 seconds north latitude and south of 29 degrees 22 minutes 00 seconds north latitude from 89 degrees 48 minutes 00 seconds west longitude westward to 89 degrees 52 minutes 00 seconds west longitude, and that portion of state inside waters north of 29 degrees 23 minutes 00 seconds north latitude and south of 29 degrees 30 minutes 00 seconds north latitude from 89 degrees 50 minutes 00 seconds west longitude westward to the eastern shore of the Barataria Waterway, and that portion of state inside and outside territorial waters bounded by the following coordinates: 1) 29 degrees 21 minutes 00 seconds north latitude 89 degrees 52 minutes 00 seconds west longitude, 2) 29 degrees 18 minutes 00 seconds north latitude 89 degrees 52 minutes 00 seconds west longitude, 3) 29 degrees 15 minutes 40 seconds north latitude 89 degrees 56 minutes 00 seconds west longitude, 4) 29 degrees 17 minutes 10 seconds north latitude 89 degrees 57 minutes 30 seconds west longitude, and that portion of state inside and outside territorial waters north of 29 degrees 08 minutes 15 seconds north latitude and south of 29 degrees 11 minutes 40 seconds north latitude from 90 degrees 03 minutes 00 seconds west longitude westward to 90 degrees 07 minutes 00 seconds west longitude.

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

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

Stephen J. Oats
Chairman

The Commissioners agreed to hold the **February 2011 Meeting** on Thursday, February 3, 2011, beginning at 9:30 a.m. at the Baton Rouge Headquarters.

Next agenda item was to receive **Public Comments**. Mr. Kirk Burleigh, President of Cameron Parish Police Jury, stated he wanted to present a resolution passed by the Police Jury to open Sabine Lake since it was a great oyster find. The main concern was to leave the east side of Calcasieu Lake at 10 sacks, but the west side of Calcasieu Lake and West Cove could handle 20 sacks in order to enhance the quality of oyster beds. Again, Mr. Burleigh asked that Sabine Lake be opened on the east side with a 10 sack limit.

Mr. Lucien Gunter, Chief Operating Officer for Acme Oyster House, began stating these last few years have been tough on the industry and he knew the Commission was looking out for the industry and consumer. He noted that Acme Oyster House has been around for 100 years and felt the marketing throughout the state and country concerned him when there was product such as in Sabine and Calcasieu and no one could harvest that product. Prices of oysters began in January at \$24 per case, \$34 per gallon to the price now of \$58 per case and \$59 per gallon. He asked the Commission to consider opening these areas so the fishermen can harvest oysters which would greatly enhance the economic value for the fishermen. With Texas opening their season, the last thing the industry wanted to see was another product on the market in this state. Mr. Gunter stated there was a need to get the domestic product back into the market and kitchens in and around the state of Louisiana.

Mr. Al Sunseri, owner of P&J Oyster Company, began stating Sabine Lake was a public resource that had not been harvested in over 50 years. In 2004, the Oyster Task Force pursued federal funding to do biological and health surveys in order to get the area opened for harvest. It was found there was a tremendous public resource. Since then samples have been taken and provided to the Food and Drug Administration to open the area. The oyster industry was at a breaking point and with an available resource, Mr. Sunseri hoped the Commission and Department would allow the fishermen to attain that product so they can continue on. He knew there were about 1.4 million market-size sacked oysters in the Sabine area and in Calcasieu there are about 713,000 market-sized oysters. Mr. Sunseri hoped that 20 sack limit would stay throughout the season so the resource would be available. Louisiana supplies about 40 percent of all oysters consumed in the United States; but this year, due to the BP disaster, the state may be 2nd or 3rd in the amount of oysters harvested. Customers were looking at substituting oysters with other items such as mussels or clams. He then asked the Commission to do whatever possible to allow the

fishermen to utilize the public resources. On a last note, Mr. Sunseri then explained that they were being challenged at the processors end with the amount of oysters being put into containers not being what it should be. With the lack of supply, this allows for what the industry called "cut the measure" with very little recourse. He asked that the laws on weights and measures be enforced by the Department of Wildlife and Fisheries and Department of Agriculture.

Mr. Chris Nelson, representing Gulf Oyster Industry Council, stated the Council was a collection of harvesters, processors and distributors of Gulf oysters throughout the 5 Gulf states. He did not have anything to add to what was already said by Mr. Gunter and Mr. Sunseri, but noted that the only thing worst than oversupplying a market was to undersupply it. With an undersupply of shrimp in the 1960's, the market was filled with a product from other countries and this may occur with the oyster industry if they cannot maximize the yield from the available resources. Realizing the Commission's primary responsibility was to protect the public resources, Mr. Nelson asked that the resources be utilized to the fullest extent by allowing oyster harvest in West Cove, the southeastern portion of Calcasieu Lake and Sabine Lake.

Mr. Harlon Pearce, Chairman of the Seafood Promotion Board and owner of a wholesale seafood processing distribution company, stated the one thing on his mind throughout the BP oil spill event was continuity of supply. If the continuity of supply was lost, then the industry would loose what Louisiana has in the market and the market share. Mr. Pearce felt the oyster industry has been the most challenged during the oil spill. With the opening of freshwater into the Gulf, there has been a lose of 25-30 percent of the oyster production. With Sabine Lake having 1.4 million sacks of oysters, this could help the state and the country survive for the next 2 years. Also, it was known that the Department of Health and Hospitals already tested the oysters and were waiting for concurrence from the FDA. Mr. Pearce asked that the Commission and Secretary Barham take action to get Sabine Lake open in order to maintain its market place. He added that the Department of Health and Hospitals, EPA and FDA put out a bulletin that says all of Louisiana's seafood was safe to eat.

Mr. John Parker, Pearl Reef Oyster Company, stated a scientific study showed the oyster resource was down 94 percent. He asked Mr. Patrick Banks to look at the trip tickets and determine how long it was taking fishermen to fill 15 sacks at the beginning of the season and at the end of the season. The data showed it took 4.5 hours at the beginning of the season to make 15 sacks and 4.9 hours at the end of the season. The fishermen in Cameron were concerned

that their resource may run out with the demand as it is. Mr. Parker asked that the sack limit be kept at 20 sacks. He agreed that Sabine Lake was important to the industry and that it needed to be opened.

Commissioner Voisin commented that during the season setting process, Secretary Barham was given the authority to open Sabine Lake. He knew that the Department was only waiting for concurrence from FDA through the Department of Health and Hospitals. He explained that to get concurrence from the FDA was a difficult process, and for Sabine Lake, this process has taken 6 years. Commissioner Voisin hoped it was about to culminate and once this concurrence occurred, the Secretary could open the area. He then suggested the Commission make no changes to the seasons, but felt the same challenges as the previous speakers felt.

Mr. Ronald Coco read from an article that said, "the State of Louisiana deer herd has shrunk by more than 300,000 to the current size of 700,000." He then asked Mr. Scott Durham where did those 300,000 deer go. Mr. Durham stated that population estimate of 1 million was probably from the mid-1990's. Habitat changes across the state was one reason for the decline in harvest. Right now, the estimated population was between 600,000 and 700,000. Mr. Coco stated that the deer pressure in Avoyelles Parish was hurting the WMAs. Mr. Dunham added that more deer was harvested from one WMA in that parish last year.

There being no further business, Chairman Oats **Adjourned** the meeting.

Stephen J. Oats
Chairman

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