

LOUISIANA WILDLIFE AND FISHERIES COMMISSION

MINUTES

September 3, 2009

**ROBERT J. SAMANIE, III
CHAIRMAN**

BATON ROUGE, LOUISIANA

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

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Louisiana Department of Wildlife and Fisheries
2000 Quail Drive

Baton Rouge, Louisiana 70808.

For more information, call (225) 765-2806.

**AGENDA
LOUISIANA WILDLIFE AND FISHERIES COMMISSION
BATON ROUGE, LOUISIANA
SEPTEMBER 3, 2009**

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MINUTES OF THE MEETING
OF
LOUISIANA WILDLIFE AND FISHERIES COMMISSION

Thursday, September 3, 2009

Chairman Robert J. Samanie, III presiding.

Ronny Graham
Earl King, Jr.
Patrick Morrow
Stephen Sagrera
Ann Taylor

Secretary Robert Barham was also present.

Commissioner Stephen Oats was absent from the meeting.

Chairman Samanie called for a motion for approval of the **August 6, 2009 Commission Minutes**. A motion for approval was made by Commissioner Sagrera and seconded by Commissioner King. The motion passed with no opposition.

Under **Commission Special Announcements/Personal Privilege** for this month, Secretary Barham explained that there are occasions when people do things that deserves special recognition. He noted litter enforcement was one of the premier issues for the Department. One person took exceptional action and went “above and beyond the call of duty”. This individual was in central Louisiana and saw a truck driver emptying his truck into a ditch along the roadway. He found out who the driver was and told him he could not dump his trash in the ditch and that he should pick up the trash. The driver did not like the suggestion. So, a call was made to the driver’s employer and explained who he was and the situation that occurred. The employer talked to his driver and made him pick up all of the trash. Secretary Barham then noted the honoree also gave a great address at the Wildlife Agents Association Meeting. He announced this person was Commissioner Patrick Morrow and presented him with the honor of being an honorary wildlife agent in Louisiana.

To receive Update on Department’s Website began with Mr. Thomas Gresham introducing the new Web Administrator Mr. Hank Yates. He then asked Mr. Adam Einck, the Media Relations Officer and Assistant Web Administrator provide an update on the electronic communications, specifically the Department’s Facebook, Twitter and You Tube. Mr. Einck stated the public was getting their news through social networking by signing up for a Facebook account. Links to the different pages were then shown. Next, Mr. Einck

showed how to view the Facebook page and how one can request to become a fan of the Department. Once a news story was posted on Facebook, the public can post feedback. At least 3 to 5 new Facebook updates were posted weekly. After only 2 months, there are over 1,000 fans and it may grow to as many as tens of thousands within a few months. Mr. Einck then showed the Twitter page, which they tried to mirror from its Facebook page. Twitter was a stripped down version of Facebook which only allows the Department to post status updates and not photos. Another difference with Twitter was that you have to be very concise with your message due to a limited number of characters allowed in the news feeds. There are about 100 Twitter followers. Facebook and Twitter can be synched to a phone which would allow the public to know that the Department has posted a new update. The You Tube page, a completely free service, began about a year ago so the Department can host their own videos. The first video on You Tube was on turkey tags and the program allows you to know how many views you have had per video. Another plus for You Tube is it allows the Department to archive their videos. The You Tube video on Giant Salvinia was shown. He then noted Mr. Thomas Gresham would speak on additional changes to the Department website.

Mr. Gresham began stating that the first thing done by the new Web Administrator was to remove the search bar which was basically unuseable. A search bar was obtained from Google free of charge. Another question from the Web Administrator was how was data collected. Not given an answer, Mr. Yates went to Google again and got another free solution called Google Analytics. This program was a way to collect data and shape the page to better inform viewers. The "Dashboard" on Google Analytics showed site usage info, map overlay, traffic and content. June, which was the first month data was collected, had fishing, boating and fishing licenses among the top 10 spots. A big surprise was the number of visitors to the Snakes of Louisiana page which resulted in positive results. For July and August, the top 10 spots shifted from fishing and boating to hunting. Monday was the day that the public viewed the Department's pages most with Saturday's and Sunday's receiving relatively few. A list of views per week showed the first week of data with the lowest and an upward trend has occurred since then. A distribution map was shown with Baton Rouge having the highest views. Next Mr. Gresham talked about moving the link to Licenses and Permits to the top of the "Useful Links" column. Another change on the website was the use of a flash banner allowing the capability to highlight up to 5 programs at a time. The last point was the reduction of clutter which helped better organize and consolidate information on the website. Commissioner Morrow stated the staff did an excellent job with the website which was much more user friendly and the capability to track views was an excellent tool. Mr. Gresham appreciated the comments and expressed a lot of the credit should go to Mr. Yates.

Commissioner Morrow then welcomed and looked forward to working with the new Commission Member Ronny Graham. He noted that Commissioner Graham had big shoes to fill on Commissioner Miller's behalf. Commissioner Graham stated he was glad to be here.

To receive and hear Enforcement & Aviation Reports/August began with Lt. Col. Keith LaCaze also welcoming Commissioner Graham and explaining the report. August was a fairly active month with boating safety. The DWI effort resulted in 26 cases on the water and 1 in a vehicle in the Region 7 area. Then in the Region 3 area, a closed season dove case was made. Other cases made included deer activity with night hunting in closed season, the take of a spike buck deer in Region 4 and a live spotted fawn case. There were 14 boating accidents reported with 5 injuries and 2 fatalities for the month. The fatalities discussed occurred in Rapides Parish and on the Amite River Diversion Canal. The injuries were in Plaquemines and Livingston Parishes. The Aviation Report showed the Departments three planes flew a total of 96 hours during August. News Releases discussed included a night hunting case in Jackson Parish, oyster enforcement case in St. Bernard Parish, vandalism case on Department equipment at Lake Fausse Pointe, and a red drum violation case in Gretna. Upcoming activities would center on DWI and the opening of dove season. Lastly, Lt. Col. LaCaze stated a new academy would begin on Tuesday, September 8 with 12 cadets. Commissioner Morrow commented he saw a good interview with an agent on the DWI laws. He added the Legislature voted to enact a new law that a boater would lose his license for a year if cited for DWI while boating. Commissioner Morrow felt the enhanced penalty should be put out for the public's information.

The next agenda item, **To receive Presentation from CCA of a Letter Commemorating Former Commissioner Fred Miller** was handled jointly by Mr. David Cresson and Mr. Tim Osborn. Mr. Cresson stated he represents 20,000 CCA members as the State Director and CEO of CCA. Mr. Tim Osborn from NOAA and Mr. Cresson were at the meeting to recommend to the Commission and Department a way to recognize Commissioner Fred Miller. The list of achievements by Commissioner Miller was impressive and included Chairman of CCA Legal Advisory's Committee which guided the gill net ban to the Supreme Court; President of CCA Louisiana Board from 2002-2004 and Chairman of CCA's National Government Relations Committee since 2001; Past Chairman of the Gulf States Marine Fisheries Commission; Past State Chair for Ducks Unlimited; devoted member of Delta Waterfowl and the Ruffed Grouse Society and Board Member of the Louisiana Wildlife and Fisheries Foundation. He then recommended that one of the artificial reefs that CCA Louisiana, the Department of Wildlife and Fisheries and other agencies built in Big Lake be named the Frederic L. Miller Reef. Mr. Cresson then introduced Mr. Tim Osborn. He began by extended best wishes to Commissioner Miller's family on behalf of NOAA. He knew that Commissioner Miller was very dedicated and committed in all of the efforts mentioned by Mr. Cresson as well as the interests of the Commission. NOAA is a part of an effort nationwide that deals with charting and naming of geographic features. The recommendation by CCA was very heartfelt and very deserving of the Commission's attention. As far as implementation, Mr. Osborn expressed his interest in working with the Commission and Department to make the process happen. He noted it was not an easy or short process, but they were a part of the process with other federal agencies. Mr. Osborn commended the Commission and Secretary Barham for supporting the placement of new reefs. He then extended his thanks to Commissioner Miller's family and he looked forward

to working with the Commission on the proposal. Mr. Osborn also thanked the other Commissioners for their role in making a commitment to serve the Department and state. Commissioner Morrow made a motion to recommend that the Commission request the appropriate federal agencies name one of the artificial reefs in honor of Commissioner Miller. Commissioner Sagrera seconded the motion. Commissioner Morrow felt this was an ultimate honor for Commissioner Miller. Chairman Samanie agreed with Commissioner Morrow. The motion passed with no opposition.

To receive and consider a Notice of Intent on Nuisance Wildlife Control Operator Program Changes was presented by Mrs. Carrie Salyers, the Urban Biologist. She noted the Department does not service most nuisance animal calls, but they permit private individuals called NWCO's. The permit allows these individuals to legally work with nuisance animals on a commercial level and to charge a fee associated with that service. Currently there are 79 NWCO's across the state. The proposed changes included: requiring all NWCO's to pass a test prior to becoming state permitted with a score of 80 percent; all applicants must be a minimum of 18 years of age; applicants must attend a Department sponsored NWCO training class within 6 months of becoming permitted; currently permitted individuals must also attend the training class; requiring 6 hours of continuing education every 3 years after the initial training class; clarifying and simplifying the reporting regulations of the NWCO's activity; and allowing these individuals to not only euthanize skunks and raccoons but feral hogs, nutria and coyotes that are trapped. Administrative changes to the proposed rule were providing instructions on the handling of sick animals; providing a timeframe for annual reporting; clarifying license requirements; recommending certification for humane exclusion of bats; providing a recommendation on carcass disposals and setting tending times on the lethal traps. Commissioner Sagrera asked if this proposal would include nuisance alligator hunters and was told no. Mrs. Salyers added that the operators are not allowed to work with alligators, wild turkeys or bears. Commissioner Sagrera then asked if the proposed regulations were more restrictive or following in step with other states. Mrs. Salyers stated these regulations were very comparative to surrounding states. Commissioner King asked how were the 79 operators compensation determined. Mrs. Salyers noted the Department does not govern the fees, that the operators determine what calls they will service and the amount that will be charged. Hearing no further questions, Commissioner Sagrera made a motion to adopt the proposal and it was seconded by Commissioner King. 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 the Nuisance Wildlife Control Operator Program.

Title 76

WILDLIFE AND FISHERIES

PART V. WILD QUADRUPEDS AND WILD BIRDS

Chapter 1. Wild Quadrupeds

§127. Nuisance Wildlife Control Operator Program

A. Purpose

1. The purpose of this Section is to establish guidelines for the permitting of Nuisance Wildlife Control Operators (NWCO's) and the procedures to be used by the NWCO's in controlling nuisance wildlife.

2. NWCO's are defined as individuals who offer commercial services for the their services for commercial control of nuisance wild mammals wildlife.

B. Permits

1. All NWCOs must have a valid NWCO permit issued by the Louisiana Department of Wildlife and Fisheries (LDWF) in their possession while engaged in nuisance wildlife control activities. NWCO permits are issued only to individuals and each individual engaged in NWCO activities must possess a NWCO permit issued in his/her name. This rule does not provide for or authorize any NWCO to name a subpermittee.

2. In addition to the NWCO permit, all NWCOs must possess a valid Louisiana trapping license and valid Louisiana basic hunting license (or equivalent) in their possession while engaged in nuisance wildlife control activities. Additionally, any NWCO servicing non-protected reptile and amphibian nuisance calls must possess a valid basic fishing license or equivalent.

3. NWCO permits will be issued on a calendar year basis (January 1-December 31) and must be renewed annually.

B C. Permit Requirements

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

~~4~~ 2. The applicant must achieve a minimum score of ~~70~~ 80 percent on the LDWF NWCO examination. The examination shall consist of ~~75~~ questions relating to wildlife biology and behavior, nuisance animal control methods and procedures, and nuisance wildlife control laws, rules and regulations. Any applicant who fails to pass the examination may take another examination no earlier than 30 days from the date of the prior examination. Applicants may not attempt to take the NWCO examination more than three times per calendar year.

~~2~~ 3. 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 years, or has been convicted of a felony in Louisiana or another state, shall not be eligible for a NWCO permit. Also, any person whose hunting or trapping license privileges are have been revoked and is ~~not legally able to purchase a trapping or hunting license~~ prohibited from hunting and trapping in Louisiana shall not be allowed to possess or operate under the authority of a NWCO permit.

~~3.~~ The NWCO Permit is not valid unless it is accompanied by a valid Louisiana Trapping license and a valid Louisiana Basic hunting license, all three of which must be carried at all times while conducting NWCO activities.

~~5~~ 4. All applicants must attend a LDWF sponsored NWCO training class prior to or within 6 months of receiving their permit. A class registration charge may be applied. Those NWCOs with valid permits at the time this rule becomes effective will have one year from the effective date of amended regulations to complete the training class requirement. All NWCOs are required to attend six hours of LDWF approved continuing education every three years after attending the NWCO training class. Failure to attend the training class or obtain the six hours of LDWF approved continuing education every three years will result in revocation of the NWCO permit.

G D. Exemptions

1. Employees of the Louisiana Department of Wildlife and Fisheries, ~~(“the Department”)~~ the Louisiana Department of Agriculture and Forestry, the Louisiana Department of Transportation and Development, U.S. Fish and Wildlife Service, and the USDA/APHIS/Wildlife Services are exempt from all NWCO permit requirements while they are on duty and carrying out official business of their respective agency. Also, city, parish, or local municipal government employees assigned to animal control duties are exempt from permit requirements while on duty and carrying out official business of their respective agency. It is recommended that exempted agencies adopt a policy requiring euthanasia of all skunks, raccoons, feral hogs, coyotes, and nutria. Animals that are not euthanized may not be released on LDWF owned or managed land such as wildlife management areas or refuges and may not be sold, bartered or exchanged.

D E. Reporting and Renewal Requirements

1. All nuisance wildlife complaints that result in a site visit by a NWCO must be fully documented on Nuisance Wildlife Complaint Forms or in a format provided by LDWF.

~~1. Nuisance Wildlife Complaint Forms must be kept by NWCO's for a period of three years. Report forms shall detail:~~

~~a. Date the nuisance wildlife complaint was received;~~

~~b. Parish in which complaint originated;~~

~~c. Species of offending wildlife;~~

~~d. Action taken and disposition of offending wildlife.~~

~~2. Report forms shall be available for inspection at all times by Wildlife Enforcement Agents or any other authorized representatives of the Department.~~

2. Nuisance Wildlife Complaint Forms for the permit period must be submitted to the LDWF no later than 30 days following the expiration of the permit and NWCO permits 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. However, the 30 day grace period that follows expiration of the NWCO permit, applies to report filing only and does not authorize NWCOs to engage in nuisance wildlife control activities without a current NWCO permit.

~~3. A summary of all nuisance wildlife control activity is to be submitted annually. The report shall include all control activity carried out during the effective dates of the permit and must include the following information:~~

~~a. NWCO name, permit number, address and telephone number;~~

~~b. The parish of activity and species of offending animal;~~

~~c. Total number of animals taken, listed by species.~~

~~d. Indication if the animal was submitted to LDWF for disease testing.~~

~~Reports may be submitted as much as one month prior to the expiration date of the permit but no later than 10 days after the expiration date of the permit.~~

4.3. Any NWCO who does not submit his/her report by the 40th 30th day after the expiration date of the permit, or who submits a false or materially incomplete

report shall be issued a citation for violation of Louisiana Wildlife and Fisheries Commission rules and regulations and, ~~if convicted, will be considered to have forfeited said permit. If the citation does not result in a conviction, plea of guilty, or plea of no contest, the NWCO will be considered for reapplication upon receipt of the late Nuisance Wildlife Complaint Form(s).~~

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. NWCOs must maintain copies of all Nuisance Wildlife Complaint Forms for three years.

E F. Procedures and Guidelines

1. The NWCO permit authorizes the holder to capture, euthanize or relocate designated species of wildlife by safe and effective means at any time of the year and without limits provided the operator is acting on a valid, documented wildlife complaint.

2. The following procedures and guidelines for NWCO permittees shall be in effect to establish what species of wildlife may be taken under the authority of this permit, the legal methods that may be used to ~~control~~ take nuisance wildlife under the authority of this permit, and the legal methods of disposing of nuisance wildlife.

a. Only wildlife damage or nuisance complaints affecting humans and/or their property are considered valid complaints. Complaints involving conflicts between two or more species of wildlife are not valid nuisance wildlife complaints.

b. NWCO permittees are only authorized to live trap and relocate, live trap and euthanize, or lethally trap the following species when such action is warranted by a valid nuisance wildlife complaint: armadillo, beaver, bobcat, coyote, feral hogs, fox, mink, ~~mole,~~ muskrat, nutria, opossum, otter, rabbit, raccoon, squirrel (including flying squirrel) and skunk. NWCO permittees are only authorized to live trap and relocate, live trap and euthanize, or lethally trap reptiles and amphibians that are not protected by federal law. Nuisance birds may be controlled as provided by existing law. Nuisance birds, reptiles and amphibians may be controlled as provided by existing law. Bats may be controlled by exclusion or by capture and relocation only. Bats shall not be controlled by any lethal methods. It is recommended all NWCOs working with bats complete the Bat Conservation International (BCI) professional excluders' course available on-line.

c. The NWCO permit does **NOT** authorize the capture and/or handling of white-tailed deer, bears, wild turkeys or alligators.

d. The sale, trade, barter, gifting or retention of any wildlife or part thereof taken under the authority of a NWCO permit is prohibited EXCEPT that furbearers taken during the open trapping season may be sold as provided by law. ~~Sick or injured~~

~~wildlife may be delivered to a licensed wildlife rehabilitator for rehabilitation purposes within 24 hours of capture.~~

e. NWCO permittees must follow all state and federal laws, rules and regulations that apply to the taking of wildlife, with the exception of season dates and bag limits, except as otherwise provided in this section.

f. All wildlife taken under a NWCO permit shall be taken and disposed of in a manner to ensure safe and effective handling and/or euthanasia. Acceptable carcass disposal options include deep burial (4 feet), incineration, and sanitary landfills. Disposal of carcasses must be in compliance with all local codes and ordinances. Euthanasia of a captured animal is to be performed under the guidelines adopted by the American Veterinary Medical Association (AVMA).

g. Traps or other capture devices set for live capture (including leg hold traps) shall be checked a minimum of once every 24 hours and all animals removed. Traps intended to result in immediate death must be checked a minimum of once every 48 hours. All traps and other capture devices shall be marked with permanent tags bearing the name, address and telephone number of the NWCO.

h. Only legal methods of take, as provided by existing law, shall be authorized under the NWCO permit. In addition to legal traps and snares, nets and capture by hand are authorized.

i. All traps and other capture devices shall be set in a manner that:

- i. will minimize the risk to non-target animals;
- ii. will minimize the risk to the public and to pets; and
- iii. are is out of the view of the general public.

j. The NWCO permit does not authorize the use of firearms, EXCEPT that nutria, beaver, coyotes, armadillos and feral hogs where legal, may be taken as provided by existing law. Firearms may also be used in accordance with the American Veterinary Medical Association (AVMA) guidelines on euthanasia. Discharge of any firearms shall be subject to all state, parish and municipal restrictions and ordinances.

k. When relocation is authorized, the NWCO may have the wildlife in possession for no more than 24 hours unless specifically authorized by the Department.

l. Wildlife that is relocated shall be released at least five miles outside of any city limit and must be released within the state of Louisiana.

m. Wildlife shall not be released on private land without written permission of the landowner or landowner designee.

n. Wildlife shall not be released on public land without first obtaining written permission from the governmental entity owning or administering the release property.

o. Captured wildlife that appears to be sick or injured shall be ~~turned over to a licensed rehabilitator or euthanized rather than~~ not be relocated. NWCOs must contact the appropriate LDWF regional office for instructions regarding sick wildlife. Burial or incineration of these carcasses is required. Injured animals may be delivered to a licensed rehabilitator or euthanized in accordance with AVMA guidelines.

p. Raccoons, skunks, feral hogs, coyotes and nutria shall not be relocated and shall be euthanized, within 12 hours of capture, in accordance with the current ~~American Veterinary Medical Association (AVMA)~~ guidelines on euthanasia.

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. 56:112, et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 30:2080 (September 2004), amended LR 35: .

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 Mrs. Carrie Salyers, Wildlife and Fisheries, Wildlife Division, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, November 5, 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).

Robert J. Samanie, III
Chairman

To receive and hear Update on Wildlife Division Reorganization and Private Lands Assistance was not discussed at this meeting.

To receive Update on Recent Shrimpers Issue began with Mr. Randy Pausina stating shrimp fishermen held two protests at the State Capitol over the last month. The Department initiated 2 separate meetings with state organizations to discuss long and short term solutions. Also, the Department met with various shrimp industry leaders, employees from other Gulf States and federal enforcement to receive input on the solutions. The Governor's Office officially tasked the Department as lead agency and the Secretary as Chair of the newly created Shrimp Task Force. The Task Force would consist of designees from the Governor's Office, the Department of Wildlife and Fisheries, Department of Agriculture, LRA, Louisiana Workforce Commission, the Attorney General's office, DHH and LED. The first meeting of the Task Force would be held on September 8. Statistics on the importance of the shrimp industry to Louisiana, the Southeast Region and the Nation was presented by Mr. Pausina. Fifty percent of the shrimp harvested in the Gulf of Mexico was landed in Louisiana which equals to 44 percent of the United States domestic shrimp production. Total economic impact from this fishery was \$1.3 million and supports more than 14,000 jobs and generates \$91 million to state and \$83 million to federal revenues. In 2000, 6,900 commercial fishermen reported sales of shrimp by taking 123,000 commercial shrimping trips, but in 2008, the figure declined to 2,900 commercial fishermen taking 41,000 trips. Mr. Pausina reminded everyone that the Louisiana shrimp fishery was not only important to the State from an economic standpoint but both socially and culturally. He stated he would keep the Commission informed of the issues as the Task Force develops and as actions take place. Commissioner King asked what time would the first Task Force meeting begin and was told 1:30 PM.

To receive and consider a Resolution and Notice of Intent relative to Special Bait Dealer Permit Regulations was the first item for this month for Mr. Marty Bourgeois. The last amendment for this rule was in 2007. The rule allows commercial establishments operating under a Special Bait Dealer Permit to harvest live shrimp and croaker during closed shrimp seasons which allows these dealers to have an uninterrupted supply available to sell to the fishing public. The permit was not intended for direct personal use or for charter boats or commercial fishermen that sell dead or live bait. The permit was highly restrictive in order to ensure compliance, commented Mr. Bourgeois. A single trawl not to exceed 25 feet in length or a pair of skimmer nets with frames not to exceed 12 1/2 feet x 12 feet was all that was allowed by these permitted bait dealers. The use of live shrimp by fishermen has grown tremendously in recent years and supply has not been able to keep up with demand. The proposed changes would allow the permitted special bait dealers to harvest live shrimp and croaker beginning May 1 of each year and during the closed season between the end of the spring and beginning of the fall season; increase the permit fee from \$100 to \$110; and reduces the combined minimum capacity of the tanks required onshore and onboard a vessel. Hearing no questions, Commissioner Morrow made a motion to adopt the proposed rule and it was seconded by Commissioner Sagrera. The motion passed unanimously.

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

RESOLUTION
SPECIAL BAIT DEALER'S PERMIT PROGRAM
September 3, 2009

WHEREAS, R.S. 56:326.3 authorizes the Wildlife and Fisheries Commission to set possession limits, quotas, places, seasons, times, size limits, and daily take limits based upon biological and technical data, for all freshwater and saltwater finfish taken or possessed in Louisiana waters, and

WHEREAS, LAC 76:VII.329 allows for a special bait dealer's permit intended solely for the benefit of the recreational fishing public which desires to use live shrimp and live croaker as bait during the closed season between the spring and fall shrimp seasons and allows for the uninterrupted operation of those commercial establishments which sell live bait shrimp and live croaker to the fishing public during the spring and fall shrimp seasons, and

WHEREAS, Act 115 of the 2009 Regular Legislative Session authorizes the Wildlife and Fisheries Commission to adopt rules and regulations for a special bait dealer's permit and allows the taking of live bait shrimp by qualified permit holders during the closed season beginning May first of each year until the opening of the spring inshore shrimp season and between the spring and fall shrimp season pursuant to such rules and regulations, and

WHEREAS, the recreational fishing public demand for live bait has increased significantly over recent years and this demand has exceeded available supplies of live bait from many permitted special bait dealers operating in certain state waters, and

THEREFORE BE IT RESOLVED, that the Wildlife and Fisheries Commission does hereby adopt a notice of intent to amend the special bait dealer's permit rule to allow for the harvest and sale of live bait shrimp and live croaker to the fishing public during the closed season beginning May first of each year until the opening of the spring inshore shrimp season and between the spring and fall shrimp season and to increase the fee charged for each special bait dealer's permit from \$100.00 to \$110.00.

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

Robert J. Samanie, III, Chairman

Wildlife and Fisheries Commission

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 amend a rule, LAC 76:VII.329, which provides for a special bait dealer's permit program. Authority to establish these regulations is vested in the Commission by R.S. 56:497(C). Said rule is attached and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§329. Special Bait Dealer's Permit

A. Policy. The special bait dealer's permit is intended solely for the benefit of the recreational fishing public which desires to use live shrimp and live croaker as bait during the closed season between the spring and fall shrimp seasons. Its purpose is to allow the uninterrupted operation of those commercial establishments which sell live bait shrimp and live croaker to the fishing public during the closed season beginning May first of each year until the opening of the spring inshore shrimp season and between the spring and fall shrimp season. The permit is not intended for the direct use of recreational fishermen, charter boats, commercial fishermen who sell dead shrimp or croaker, or for any other entity which may wish to catch shrimp or croaker for their own use during the closed season.

B. Application

1. Applications for the special bait dealer's permit will be accepted from January 1 through April 30 of each year. All applications should be mailed to the department via certified mail.

2. Applications will be accepted only from the owner of an existing business which sells or plans to sell live bait to recreational fishermen.

3. Applications must be notarized and made on forms provided by the Department; all information requested must be provided before the application will be processed.

4. Applicants must show proof of having acquired all necessary licenses and permits before the permit will be issued. This includes, if relevant, boat registration, vessel license, gear license, commercial fishing licenses, and name of fisherman; wholesale/retail seafood dealers license, state sales tax number, and a copy of the applicant's and the fisherman's valid driver's license. A background check for wildlife violations of the applicant and the fisherman will be made. Any person convicted of any Class Two or greater wildlife or fisheries violation within the previous 3 years prior to the date of application shall not qualify to obtain a special bait dealer's permit or be onboard any vessel engaged in permitted activities.

5. Beginning in 2008, applicant must post a \$1,000 cash bond before the permit is issued. This bond will be forfeited if the permittee, his employee, or his contractor violates any provision of the rules and regulations concerning the special bait dealer's permit or if the permittee, his employee, or his contractor violates any commercial fishing law or regulation while operating under the permit. The fee for the special bait dealer's permit shall be \$110.

6. Before the permit is issued an agent of the Department must inspect the facilities of the applicant and verify that the applicant is operating a commercial establishment which sells live shrimp or live croaker to the fishing public for use as bait, and that the applicant does have facilities to maintain live shrimp or croaker. Notice to the public must be posted that live bait shrimp or croaker are available for sale. The applicant must have onshore facilities, including tanks with a combined minimum capacity of 300 ~~500~~ gallons, available to hold live shrimp or live croaker. These tanks must have provisions for aeration and/or circulation of the water in which live shrimp or croaker are held prior to sale. In determining total tank capacity of onshore facilities, the agent shall not count any tank with a capacity of less than 30 ~~50~~ gallons.

7. Only the applicant, his designated employee, or his contractor may operate under the permit. At the time of application, the applicant will specify the vessel and who will be working under the permit. Should the vessel or these persons change, the applicant shall submit an amended application listing the vessel or those persons and be in receipt of an approved amended permit before the new vessel or persons operate under the permit. The permit is not transferable to any other person or vessel. The entire original permit must be carried on the vessel while in operation.

8. No person shall transfer any shrimp or croaker taken under a permit from one vessel to another.

C. Operations

1. Only the vessel and captains listed in the permit shall be used with the permit. Live wells, aeration tanks, and other vessel facilities to maintain live shrimp or croaker must be carried on or built into this vessel; it must be used for both taking and

transporting the live shrimp or croaker. The vessel must have a minimum of one compartment or tank with a minimum capacity of ~~30~~ 50 gallons. No other vessel may be used under the permit. Signs which identify the vessel as working under the special bait dealer's permit shall be posted on the vessel. These signs shall be visible from either side of the vessel and from the air; the word "BAIT" and the permit number shall be placed on these signs in letters at least 12 inches high.

2. Permitted gear is limited to one trawl not to exceed 25 feet along the cork line 33 feet along the lead line or two skimmer nets having an individual net frame size not more than 12 and 1/2 feet measured horizontally or 12 feet measured vertically or 17 feet 4 inches measured diagonally. These are the only gears which can be used or carried aboard the permitted vessel while the vessel is operating under the permit; no other commercial fishing gear may be on the vessel when it is being used under permit.

3. No more than two gallons of dead shrimp or croaker or combination thereof may be aboard the vessel while it is operating under the permit. All dead shrimp or croaker or combination thereof in excess of two gallons must be immediately returned to the water. Shrimp or croaker dying in onshore holding facilities may be sold for bait use only, in lots not to exceed 16 ounces in weight.

4. Bait shrimp or croaker may be taken only from official sunrise to official sunset; no night fishing is allowed under this permit.

5. The entire original permit must be in the possession of the person operating the vessel while it is engaged in taking shrimp or croaker under the terms of the permit.

6. Each time the permit is used the permittee must notify the Department by contacting the Communications Section on the designated toll free telephone number provided on the permit and recording the confirmation number received. Before the vessel departs the dock under the permit, the Department must be advised of the time of departure and the sub-basin code corresponding to the Department's trip ticket sub-basin map in which trawling or skimming will take place; immediately after the permitted vessel returns to the dock the Department must be notified of the time of return by contacting the Communications Section on the designated toll free telephone number provided on the permit.

7. The permittee shall maintain an up-to-date record of the activities conducted under the permit on forms provided by the Department for that purpose. These records shall be kept onboard the vessel and made available for inspection by agents of the Department upon request by said agents at any time and shall include the permittee's name and permit number, date, departure time, fishing location, gear used, confirmation number, return time, and number of live shrimp or live croaker harvested. All applicable record information shall be completed before fishing operations begin. In addition, any agent of the Department shall be allowed to make an on site inspection of any facilities

operating under the permit, at any time. Permittee shall submit to the Department, not later than September 1 following the live bait season, this record of permit activities on forms provided by the Department. Nothing herein this section shall exempt the permittee from trip ticket reporting requirements as provided for in LA R.S. 56:306.4.

D. Penalties

1. No person shall violate any provision of this section. Violations of any provision of this section shall constitute a class 4 violation as defined in LA R.S. 56:34.

AUTHORITY NOTE: Promulgated in accordance with LA R.S. 56:326.3 and 56:497(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 3:210 (April 1977), amended LR 15:867 (October 1989), LR 19:215 (February 1993), LR 23:86 (January 1997), LR 33:864 (May 2007), LR 35: .

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 final rule, including but not limited to, the filing of the fiscal and economic impact statement, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments relative to the proposed rule to Martin Bourgeois, Marine Fisheries Biologist, Office of Fisheries, Marine Fisheries Division, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, November 5, 2009.

In accordance with Act No. 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).

Robert J. Samanie, III
Chairman

Then Mr. Marty Bourgeois presented the next item, **To receive and consider a Resolution and Notice of Intent on the 2010 Abandoned Crab Trap Removal Program.**

The presentation would include the Department recommendations for the 2010 program and review progress of the program. There have been 10 areas closed for the removal of crab traps and almost 18,000 abandoned traps were collected from 184 boat days of volunteer effort. In 2004, there were about 7,000 traps retrieved, but for the last few years, the number of traps collected were decreasing. This decrease was thought to be due to lack of volunteer effort. The Department staff led the effort with 52 boat days of effort with an average of 92 traps removed per boat. Commercial fishermen accounted for about 20 percent of traps removed, recreational fishermen about 15 percent and other agencies and

university personnel about 11 percent. Next shown was a map of the areas closed to conduct the crab trap removal programs in. Mr. Bourgeois then noted the Commission's authority to establish a closure was from R.S. 56:332 which included designating areas for a trap closure, who could pick up the traps, disposal sites and dates for the trap closure. The closure dates could be a winter closure of up to 16 days beginning February 1 through March 31 of each year and in the spring for a maximum of 14 days in conjunction with the opening of the inshore shrimp season. The 2010 recommendation was to close a portion of the upper Barataria Bay Estuary beginning February 28 at 6 AM and end at 6 AM on March 9. Staff also recommended that all remaining traps in that area be considered abandoned and can be removed from one-half hour before sunrise to one-half hour after sunset. Traps cannot be possessed outside of the closure area and they must be brought to the disposal sites designated by Secretary Barham. A map of the closure area in Jefferson and Lafourche Parishes was shown. Funding sources for the program initially came from NOAA, and then in 2006, a \$5,000 grant was received from the Barataria-Terrebonne National Estuary Program. Now there was permanent funding which comes from \$5 from every resident and non-resident commercial trap gear license sold as a result of legislation sponsored by the Louisiana Crab Task Force. To date, about \$118,000 has been collected. Commissioner Morrow asked if there was a reason to only close one area and not other areas. Mr. Bourgeois stated there were multiple closures before, but with staffing concerns and no volunteer efforts, clean ups are difficult to manage. One question among staff was how to regenerate public interest since it was such a dirty job. Commissioner Morrow asked if the closure was biological to protect the species or just to clean an area. Mr. Bourgeois stated it was certainly not a biological issue but more to clean the area. The timing of the closure was at a time when crab landings were the lowest which minimized the impact to crab fishermen. Chairman Samanie asked if an increase in volunteering may occur if the commercial crab fishermen were allowed to tag and keep the good traps. Mr. Bourgeois stated theft in the crab fishery was bad and this may encourage more trap theft. Hearing no further questions, Commissioner Sagrera made a motion to adopt the Resolution, seconded by Commissioner King and passed with no opposition.

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

RESOLUTION
2010 ABANDONED CRAB TRAP REMOVAL PROGRAM
September 3, 2009

WHEREAS, Act 48 of the 2003 Regular Legislative Session, R.S. 56:332(N), authorizes the Wildlife and Fisheries Commission to establish a program for the removal of abandoned crab traps from state-owned lake and river beds and other water bottoms of the state, and

WHEREAS, R.S. 56:332(N) authorizes the Wildlife and Fisheries Commission to provide for a prohibition on the use of crab traps and for removal of abandoned traps and their disposal, and

WHEREAS, the Wildlife and Fisheries Commission shall specify the beginning and ending dates for the prohibition on the use of crab traps, shall specify the geographical area within which the use of crab traps shall be prohibited and shall specify who is authorized to remove the abandoned traps, and

WHEREAS, the abandoned crab trap removal program has been highly successful since 2004, with 17,972 abandoned crab traps removed from Louisiana state waters, now

THEREFORE BE IT RESOLVED, that the Wildlife and Fisheries Commission does hereby adopt a notice of intent to implement a rule for a crab trap closure during the 2010 abandoned crab trap removal program which is attached to and made a part of this resolution and which will become effective upon promulgation.

BE IT FURTHER RESOLVED, that the Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to designate the locations where removed and abandoned traps are to be placed for disposal.

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

Robert J. Samanie, III Chairman
Wildlife and Fisheries Commission

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 amend a rule, LAC 76:VII.367, which provides for an abandoned crab trap removal program. Authority to establish these regulations is vested in the Commission by R.S. 56:332(N). Said rule is attached and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§367. Removal of Abandoned Crab Traps

A. The use of crab traps shall be prohibited from 6:00 a.m., February 27, 2010 ~~23, 2008~~ through 6:00 a.m. March 8, 2010 ~~3, 2008~~ within that portion of Lafourche Parish, Jefferson Parish, and Plaquemines Parish ~~and Terrebonne Parish~~ as described below:

1. From a point originating from the intersection of the Gulf Intracoastal Waterway and the northern shoreline of Hero Canal; thence due north to a point along the northern shoreline of the Gulf Intracoastal Waterway; thence southward and then westward along the northern shoreline of the Gulf Intracoastal Waterway to a point opposite the western shoreline of Bayou Perot; thence due south to the western shoreline of Bayou Perot; thence southward along the western shoreline of Bayou Perot to Little Lake; thence southward along the western shoreline of Little Lake to 29 degrees, 30 minutes, 00 seconds north latitude; thence eastward along 29 degrees, 30 minutes, 00 seconds north latitude to the eastern shoreline of Wilkinson Canal; thence northward along the eastern shoreline of Wilkinson Canal to its termination; thence due north to the western shore of the Mississippi River; thence northwestward along the western shore of the Mississippi River to a point due east of the northern shoreline of Hero Canal; thence due west to the northern shoreline of Hero Canal; thence westward along the northern shoreline of Hero Canal and terminating at its intersection with the Gulf Intracoastal Waterway. ~~From a point originating along the western shoreline of Cut Off Canal at its intersection with Grand Bayou, thence southward along the western shoreline of Cut Off Canal to its intersection with the boundary of the Pointe-aux-Chenes Wildlife Management Area, thence west along the southern boundary of the Pointe-aux-Chenes Wildlife Management Area to the Humble Canal, thence west along the northern shoreline of Humble Canal to its intersection with Bayou Terrebonne, thence south along the western shoreline of Bayou Terrebonne to its intersection with Bush Canal, thence west along the northern shoreline of Bush Canal to its intersection with Bayou Little Caillou, thence south along the western shoreline of Bayou Little Caillou to 29 degrees 17 minutes 00 seconds north latitude, thence east along 29 degrees 17 minutes 00 seconds north latitude to the eastern shoreline of Bayou Pointe-aux-Chenes, thence north along the eastern shoreline of Bayou Pointe-aux-Chenes to the eastern shoreline of Cut Off Canal, thence north along the eastern shoreline of Cut Off Canal to its intersection with the southern shoreline of Grand Bayou, thence west across Cut Off Canal and terminating at the point of origin at the western shoreline of Cut Off Canal at its intersection with Grand Bayou.~~

B. All crab traps remaining in the closed area during the specified period shall be considered abandoned. These trap removal regulations do not provide authorization for access to private property; authorization to access private property can only be provided by

individual landowners. Crab traps may be removed only between one-half hour before sunrise to one-half hour after sunset. Anyone is authorized to remove these abandoned crab traps within the closed area. No person removing crab traps from the designated closed areas shall possess these traps outside of the closed area. The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to designate disposal sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:332(N).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 30:101 (January 2004), amended LR 31:108 (January 2005), LR 32:266 (February 2006), LR 33:113 (January 2007), LR 34:97 (January 2008), LR 35: .

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 final rule, including but not limited to, the filing of the fiscal and economic impact statement, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments relative to the proposed rule to Mr. Vincent Guillory, Marine Fisheries Biologist Manager, Marine Fisheries Division, Box 189, Bourg, LA 70343, prior to Thursday, November 5, 2009.

In accordance with Act No. 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).

Robert J. Samanie, III
Chairman

The Commissioners agreed to hold the **January 2010 Meeting** on Thursday, January 7, 2010, beginning at 9:30 a.m. at the Baton Rouge Headquarters.

Next agenda item was to receive **Public Comments**. Commissioner King congratulated the Department on the new hunting pamphlet format.

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

Robert J. Barham

Secretary

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