

LOUISIANA WILDLIFE AND FISHERIES COMMISSION

MINUTES

September 1, 2011

STEPHEN W. SAGRERA  
CHAIRMAN

BATON ROUGE, LOUISIANA

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Louisiana Department of Wildlife and Fisheries  
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**AGENDA**  
**LOUISIANA WILDLIFE AND FISHERIES COMMISSION**  
**BATON ROUGE, LOUISIANA**  
**September 1, 2011**

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MINUTES OF THE MEETING  
OF  
LOUISIANA WILDLIFE AND FISHERIES COMMISSION

Thursday, September 1, 2011

Chairman Stephen Sagrera presiding.

Billy Broussard  
Ronny Graham  
Ann Taylor  
Mike Voisin

Secretary Robert Barham was also present.

Commissioners Patrick Morrow and Stephen Oats were absent from the meeting.

Chairman Sagrera called for a motion for approval of the **August 4, 2011 Commission Minutes**. A motion for approval was made by Commissioner Voisin and seconded by Commissioner Broussard. The motion passed with no opposition. Then Commissioner Voisin made a motion to approve the **August 17, 2011 Commission Minutes**, seconded by Commissioner Broussard and unanimously approved.

Under **Commission Special Announcements/Personal Privilege** for this month, Commissioner Voisin made a motion to suspend the rules to add another item to the agenda based on public comments received on the Notice of Intent for the 2012 Turkey Season. Commissioner Graham seconded the motion and it passed with no opposition.

Based on the Commission's approval, Mr. Jimmy Stafford presented the next item, **To consider Amendment to the Notice of Intent for the 2012 Turkey Season**. He began stating that the Department received a lot of e-mails with the majority supporting the original proposal. Recently the Department became aware of opposition and held a public meeting in north-central Louisiana. The opposition was in splitting the state into 2 zones. Mr. Stafford stated, as a result of the meeting, staff was faced with 3 options: 1) open the season Saturday nearest March 22, 2) open the Saturday nearest March 29, or 3) open the season the fourth Saturday of March. The decision was to go with the last option since it encompassed both of the other 2 options. From a biological standpoint, the trend was to go with a later start, but Mr. Stafford felt it was a good

compromise between the 2 areas. The new proposal will be the same season structure as those from 2002 - 2009. In a survey conducted in 2007, 71 percent of the hunters preferred the fourth Saturday in March or later. From the 2011 survey, 62 percent of the hunters preferred a March 24 opening date or later. He then proposed dropping the zones and go with a statewide opening date on the fourth Saturday in March. The Area A season would be March 24-April 22; Area B - March 24-April 15; Area C - March 24-April 8; and the youth and physically challenged hunts would be March 17-18. Commissioner Voisin asked about the range of opening dates and Mr. Stafford explained the fourth Saturday of March could be as early as the 22<sup>nd</sup> or as late as the 28<sup>th</sup>. Commissioner Broussard asked why was the season changed and Mr. Stafford felt it was due to localized public push to have an earlier opening. Commissioner Graham asked Mr. Stafford if he made the comment that biologically the later opening would be better for turkeys and he was told yes.

But Mr. Stafford added that hunter desire needed to be factored in as well. He then noted that the amendment would be for both Notices of Intent on turkey seasons and regulations. Also, Mr. Stafford mentioned that the dates for the wildlife management areas would be adjusted to meet the new framework. The amendments were then read by Mr. Stafford. Commissioner Graham made a motion to accept the amendments, seconded by Commissioner Voisin. With no public comments, the motion passed with no opposition.

Lt. Col. Joey Broussard stated, for the agenda item, **To receive and hear Enforcement & Aviation Reports/August**, the Department's planes flew a total of 87 hours for the month. There were 10 boating accidents reported with 10 injuries and 0 fatalities. A total of 1,217 cases and 515 written warnings were issued during August and agents helped with 60 public assists. News releases discussed were on fishermen cited in federal waters for closed season snapper fishing; and a Pineville individual was cited for being in possession of 3 spotted fawns. Then Lt. Col. Broussard explained a bear case that began with a tip during the 2008-09 hunting season and after other tips were received, agents found the bear hide and head that was to be mounted. Department agents and staff from U.S. Fish and Wildlife Service investigated the case and interviewed witnesses. Once a case is submitted to the U.S. Attorney, they interview witnesses and once accepted a court date was set. If the person was found guilty, a pre-sentence investigation was initiated during which time the Department cannot provide comment. The individual pled guilty and that was why the News Release just came out.

**Public comments on amended Notice of Intent on the Calcasieu Lake Oyster Harvester Permit** and none were heard.

The next agenda item, **To receive and consider Notice of Intent on 2012 Abandoned Crab Trap Removal Program** was handled by Mr. Marty Bourgeois. This action was the Department's recommendation for the 2012 crab trap removal and clean-up program. This program began in 2004 following legislation which gives the Commission authority to designate the trap area closure, who will pick up the traps, the disposal sites and the dates of the closure. The legislation also authorized there would be a winter closure for up to 16 consecutive days during the time from the first of February and ending March 31 or a spring closure for up to 14 days in conjunction with the opening of the spring inshore shrimp season. Mr. Bourgeois showed a composite map of the closed areas since 2004. The total number of traps removed since 2004 was about 19,500. In 2004 and 2005, there was great volunteer participation and organizations, but that volunteer effort has waned over the last several years. The closure in early 2011 was contracted out. From those 19,500 traps picked up, the Department picked up about 50 percent, commercial fishermen - 19 percent, recreational fishermen - 14 percent, university and other agency personnel - 10 percent, contractor - 6 percent and unknowns - 5 percent. The closure for 2012 would include a portion of St. Bernard and Plaquemines Parish for a 9 day period beginning 6 a.m., February 25 and ending 6 a.m., March 5, 2012. Another closure will be for a portion of Terrebonne Parish beginning at 6 a.m., March 17 through 6 a.m., March 26, 2012. All traps remaining in the closure area would be considered abandoned and anyone could retrieve the traps. The action also specifies the time, one-half hour before sunrise to one-half hour after sunset; traps cannot be possessed outside of the closure area; and the traps must be brought to designated disposal sites. A map of the closure areas was shown. Mr. Bourgeois added that the Department was partnering with LSU Sea Grant and it was hoped to bring back the volunteer component and achieve the 5,000 trap results. Commissioner Voisin asked Mr. Bourgeois to explain "traps cannot be possessed outside of closure area". Mr. Bourgeois added that the timing of the closure occurs when landings were historically at their lowest. He added that a mail out notice would be sent to all licensed recreational and commercial crab trap holders. Chairman Sagrera asked about the success of the contracted closure that occurred earlier in the year. Mr. Bourgeois stated about 1,200 traps were removed from the Bay Jimmy area. Chairman Sagrera then asked if volunteer numbers do not go back up, will contractors be used again. Mr. Bourgeois felt the Department would continue with the program as it was a great expense to have a contractor. Chairman Sagrera asked what was the incentive for the contractor to not leave any traps behind and Mr. Bourgeois noted the best solution was oversight and monitoring their activity. Commissioner Voisin asked if the contract was a daily deliverable or a per trap contract and Mr. Bourgeois stated it was a fixed cost. Then

Commissioner Voisin asked what was the cost for the contract and he was told \$47,000. He suggested offering the crab fishermen an incentive and it may result in more traps. Mr. Bourgeois mentioned that funding was always a concern and the funding for the program was from an add on fee assessed to each recreational and commercial crabber. Commissioner Broussard added that volunteering was the route to go. Hearing no further questions, Commissioner Voisin made a motion to adopt the Notice of Intent, seconded by Commissioner Taylor and passed with no opposition.

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

#### NOTICE OF INTENT

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

The Wildlife and Fisheries Commission does hereby give notice of its intent to 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 25, 2012 ~~27, 2010~~ through 6:00 a.m., March 5, 2012 ~~8, 2010~~ within that portion of St. Bernard Parish and Plaquemines Parish Lafourche Parish, Jefferson Parish, and Plaquemines Parish as described below:

1. From a point originating along the southern shoreline of the Mississippi River Gulf Outlet (MRGO) at 89 degrees 36 minutes 00 seconds west longitude; thence southward along 89 degrees 36 minutes 00 seconds west longitude to 29 degrees 39 minutes 00 seconds north latitude; thence westward along 29 degrees 39 minutes 00 seconds north latitude to 89 degrees 38 minutes 30

seconds west longitude; thence southward along 89 degrees 38 minutes 30 seconds west longitude to 29 degrees 38 minutes 00 seconds north latitude; thence westward along 29 degrees 38 minutes 00 seconds north latitude to 89 degrees 40 minutes 30 seconds west longitude; thence southward along 89 degrees 40 minutes 30 seconds west longitude to 29 degrees 34 minutes 00 seconds north latitude; thence westward along 29 degrees 34 minutes 00 seconds north latitude to the eastern shore of the Mississippi River; thence northward along the eastern shore of the Mississippi River to 89 degrees 54 minutes 00 seconds west longitude; thence northward along 89 degrees 54 minutes 00 seconds west longitude to the southern shoreline of the MRGO; thence eastward along the southern shoreline of the MRGO terminating at the point of beginning. 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.—

B. The use of crab traps shall be prohibited from 6:00 a.m., March 17, 2012 through 6:00 a.m., March 26, 2012 within that portion of Terrebonne Parish as described below:

1. From a point originating from the intersection of LA Highway 57 and Dulac Canal; thence east along LA Highway 57 to its intersection with LA 56; thence due east to the western shoreline of Bayou Little Caillou; thence north along the western shoreline of Bayou Little Caillou to its intersection with Lapeyrouse Canal; thence east along the northern shoreline of Lapeyrouse Canal to its intersection with Bayou Terrebonne; thence south along the eastern shoreline of Bayou Terrebonne to its intersection with Seabreeze Pass; thence southwest to channel marker number 17 of the Houma Navigation Channel at 29 degrees 11 minutes 11.3 seconds north latitude 90 degrees 36 minutes 44.5 seconds west longitude; thence

southwest to the northern most point on Pass la Poule Island at 29 degrees 08 minutes 33.5 seconds north latitude 90 degrees 39 seconds 01.3 seconds west longitude; thence west to Bayou Sale channel marker at 29 degrees 06 minutes 31.8 seconds north latitude 90 degrees 44 minutes 34.2 seconds west longitude; thence north to the western shoreline of Bayou Sale; thence north along the western shoreline of Bayou Sale to its intersection with Four Point Bayou; thence north along the western shoreline of Four Point Bayou its intersection with the Houma Navigation Channel; thence north along the western shoreline of the Houma Navigation Channel to its intersection with Bayou Grand Caillou; thence north along the western shoreline of Bayou Grand Caillou to its intersection with Dulac Canal; thence east along the northern shoreline of Dulac Canal and terminating at the point of beginning.

C 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 during the closure periods 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 36:77 (January, 2010), LR 37: .

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. Martin Bourgeois, Marine Fisheries Biologist DCL-B, Marine Fisheries Section, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, November 3, 2011.

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).

Stephen W. Sagraera  
Chairman

**To receive and consider Declaration of Emergency for 2011-2012 Oyster Season on Public Oyster Areas** began with Mr. Patrick Banks stating his presentation would be on the annual oyster stock assessment and season recommendations. The management goals of the program was to manage, conserve and promote the wise use of the public oyster resource while providing a harvestable amount of seed oysters for transplant and provide a harvestable amount of sack oysters. The goals are achieved through habitat enhancement programs (cultch planting), seasonal framework, setting harvest restrictions, enforcing the restrictions and laws, and biological sampling culminating in an annual stock assessment. The annual stock size for this year was about 1.6 million barrels of oysters statewide which was a reduction of 38 percent in seed resources but an increase of 34 percent in sack resources. Mr. Banks then noted about 10 percent of the seed and market sized oysters are located east of the Mississippi River; 3 percent of seed and less than 1 percent of sacked oysters are in the public grounds in the Barataria Bay system; in eastern Terrebonne, there is about 2 percent of seed and less than 1 percent of the market resources; western Terrebonne and Sister Lake Public Oyster Seed Reservation contains about 18 percent of the seed and 10 percent of the market sized resources; and the largest portion of the remaining resources are contained in Calcasieu and Sabine Lakes. East of the Mississippi River has about 50,000 barrels of seed (1 barrel = 2 sacks) and 95,000 barrels of market-sized oysters; the Hackberry Bay area has about 18,000 barrels of seed and 3,000 barrels of market-sized oysters; eastern Terrebonne - 11,000 barrels of seed and 3,000 barrels of market; Sister Lake - over 100,000 barrels of seed and market-sized oysters; and Calcasieu and Sabine Lakes has about 400,000 barrels of seed and 800,000 barrels of market-sized oysters. Most notable points from the stock assessment were there was very little seed oyster stock available to leaseholders, the Black Bay area doubled in market-sized oysters, oysters in Sister Lake were double the amount available east side of the River, and Calcasieu holds 41 percent of the resources available in that area. The oyster season recommendations for this year included opening Little Lake on September 7; having a statewide opening on October 17 (which was very close to the Oyster Task Force recommendation); opening Calcasieu Lake West Cove on November 1 with a 10 sack limit

while leaving the east side of Calcasieu Lake and Sabine Lake closed this season. Commissioner Voisin stated the shell plant in eastern Calcasieu had a substantial resource last year and he asked if the recommendation was to keep it closed. Mr. Banks stated there was a substantial seed resource last year and it was expected there would be a substantial market-sized resource this year, but that did not occur due to a predatory marine snail which has created a tremendous amount of damage to the resource. Commissioner Voisin asked if the same was seen in Sabine and Mr. Banks was not sure about Sabine. Commissioner Voisin asked if the recommendation was to leave Big Lake on the east side of Calcasieu closed even though the predators are harvesting the resource and Mr. Banks answered yes. Commissioner Broussard asked if the snails were showing up in West Cove and Mr. Banks commented they were there but not in the densities found on the east side. He added that the reef was the first place closest to the Gulf of Mexico for the snails to hit as they infest the lake. Commissioner Broussard asked if the snails feed on anything else and he was told they feed on mussels, weakened crabs, but the preferred choice was oysters. Commissioner Voisin asked what were the salinity readings in the Calcasieu area and Mr. Banks replied they were steadily in the 20's, which was a very high salinity. Chairman Sagrera then asked for public comments.

Mr. Stephen Voisin stated some people felt the Sabine Lake reef area was benefitting from not harvesting oysters since it was a vertical reef. But all across Louisiana there are reefs similar to Sabine and there has been no damage to a reef being harvested. In fact, Mr. Voisin felt it was just the opposite, they thrive during harvest. He then named a few areas such as the Little Hill, Diamond Reef, Shell Keys area and off of Pointe-au-Fer that were similar to the Sabine area reef.

Mr. John Tesvich, Chairman of the Louisiana Oyster Task Force, thanked, on behalf of the Task Force, Mr. Banks and Department staff for the concise and informative stock assessment. The consistency throughout the years allows for a historical timeline of events affecting stock size and their future. Mr. Banks presented the stock assessment to the Oyster Task Force and there were lots of discussion about the public reefs and season recommendations, added Mr. Tesvich. One point mentioned at the Task Force meeting was concern over the lack of recruitment of young oyster spat and die-off of spat seen in CSA 1 (area from the Mississippi state line to the east side of the Mississippi River).

With the lack of harvest, there was very little rehabilitation of the reefs. Another concern was a muddy slime showing up on the shell reefs described by the biologists as a type of sponge which Mr. Tesvich felt was unusual and possibly affecting the larvae and

spat on the oysters. This concern led to recommend more research be conducted on the reefs to find out what was growing on the shell, why it was growing and how it affects the young. Also, the Task Force wanted to see if there are remediation programs for cleaning the reef and if so they would work with the Department to see if there are protocols to help rehabilitate and cultivate the reefs. Then Mr. Tesvich stated with regard to the recommendations, the Task Force has worked with the Department and support those recommendations for CSA 1-6 (east side of the Mississippi River through the Vermilion Bay area). The Task Force differs from the Department on the Calcasieu Lake East Cove by recommending it open on November 20; and open Sabine Lake since there was a substantial resource in the lake which would be a crucial supply that could be brought to market.

Mr. Daniel Coulon began thanking the Commission and Department for the work done through the years. He felt there have been a lot of good decisions made in order to protect and provide a resource. Mr. Coulon stated this was an unusual year in that the reefs need the fishermen to get in there and work them. Also, he felt if the fishermen would be able to get the larger oysters out, it would create less conflict later. Mr. Coulon noted they support the Department's recommendation and the Oyster Task Force's recommendation and amendment.

Mr. Shane Bagala asked if there were any closure dates for the CSA 6, Sister Lake area. Mr. Banks apologized for not explaining the recommendation for closing the oyster season. The recommendation was to give the Secretary authority to close an area when staff sees the need after closely monitoring the harvest. Then Mr. Bagala mentioned that Sister Lake was opened every other year and the last time it was opened, there was a health closure after 2 days. He asked that the closures not happen as quickly so the fishermen could have an opportunity to work the reefs.

Mr. Al Sunseri, a member of the Oyster Task Force and owner of P&J Oyster Company, stated the seafood industry had a real problem following the BP oil spill. Again, he mentioned the Task Force agrees with the Department recommendations except for the East Cove and Sabine Lake. The state of Louisiana has been for decades the number one producer of oysters in the country. Mr. Sunseri added they need a resource to maintain the market share and the public resource are found in the Calcasieu and Sabine areas. A typical harvest day could range from 50 to 200 sacks of oysters per day. The actual taking of the resource was limited; and historically, it has been found that the resource rebounds in the Calcasieu area. He strongly supported opening East Cove due to the very nice oyster resource. The recommendation by the Task Force was to open Sabine

Lake on October 1 until October 30 and then reopen on March 1 through March 31 with 10 sack per day limit. Mr. Sunseri felt the larger oyster fishermen would not bother with Calcasieu and Sabine areas due to the 10 sack limit. He concluded by asking the Commission to support the Oyster Task Force's recommendation so they can retain a market share.

Mr. Chris Macaluso, Coastal Outreach Coordinator for the Louisiana Wildlife Federation, stated a copy of a resolution adopted by the Federation was presented to the Commission back in April on the status of the reef in Sabine Lake. He then explained several reasons why the Federation feels the reef is so important. First, due to the vertical reef and the fact it has been unharvested provides a shoreline protection that is keeping the marsh intact. Also, the reef was providing the improved water quality in Sabine Lake. The Federation will ask the Legislature to designate this reef as a sanctuary during their next session. Mr. Macaluso added the Federation was in support of Senator Morrish's resolution that asked the Department of Wildlife and Fisheries and the Office of Coastal Protection and Restoration to fully examine the reef on the benefits to the marsh and ecosystem in Sabine Lake. He then read a quote, "One oyster can create one million oysters. There is millions of oysters to start out on our reefs, if we recoup 3 percent of the spawn in one season, we will have more oysters than we will know what to do with." and wondered if the Oyster Task Force felt this was incorrect in that the reefs would not recover and it was necessary for the Department to open Sabine Lake so the oyster industry could remain viable. Mr. Macaluso mentioned that Louisiana was investing significant dollars in researching and building shoreline protection for our coasts and felt the Sabine reef was a good example on how living reefs can protect the coasts.

Commissioner Voisin explained to Mr. Macaluso that Sabine Lake was legislated as an oyster harvest area before he was born and has not been harvested for a number of years. The industry was having a problem with reproduction due to the lack of harvest last year and Commissioner Voisin supported the concepts presented in order to make more larvae. Sabine Lake has been closed due to industrial pollution and fecal pollution but still has been an oyster harvesting area. The oyster community has been working to get this area reopened, especially since Hurricane Katrina, and the State has invested money to make sure the area can be harvested which has been concurred by the Food and Drug Administration. The Commission has kept the Sabine area closed for 30 years and they would decide whether to keep it closed at that meeting. Mr. Macaluso then stated that the legislature adopted a resolution to study the reef to determine its ecological and economic worth and was presented to a Committee formed at the request of the Commission that state and federal coastal restoration planners consider Sabine reef an

integral part of coastal restoration and protection in southwest Louisiana. He asked why not allow the Department and Office of Coastal Protection and Restoration fully examine the reef to determine if it is the reason the marsh was intact and use that information in other areas to make them sustainable. Commissioner Voisin said he supported the resolution but it did not mention the area should be kept closed. He felt opening a portion of the area to harvest would give a true picture of what could happen. If you want to study the area, begin by opening the area for harvest and see if the harvest has an impact. Mr. Macaluso did not know if harvesting the reef was the way to go in terms of studying the reef. Commissioner Voisin felt harvesting the oysters was different from harvesting the reef since there is no allowable seed harvesting in that area. He added that the vertical reef would not be touched. Commissioner Broussard asked if the eastern shore of Calcasieu was eroding at a faster rate than Sabine. He then stated that would be a study. Mr. Macaluso felt the Calcasieu Ship Channel was one problem with erosion and if the Sabine Lake Ship Channel was deepened would be another reason to keep the reef intact as it is now. Commissioner Broussard agreed with Commissioner Voisin and felt it should be done with very strict limitations.

Mr. Byron Encalade stated, as an oyster community, they support the Wildlife and Fisheries and the Oyster Task Force Chairman and asked that the Commission consider those recommendations. He then thanked Mr. Banks for his dedication in preserving the natural resources.

Ms. Karen Gautreaux, Director of Government Relations with Nature Conservancy, stated they have been working with the Oyster Advisory Group and have been very active in state coastal restoration policy. She added to Commissioner Broussard that he asked some good questions and times were hard which was a concern for the oyster industry. The Nature Conservancy was interested in the water quality improvement, habitat values and shoreline protection values provided by the reef. Maps they have found shows the Sabine area now looks very similar to the way it did back in 1919. Ms. Gautreaux disagreed with Commissioner Voisin. Oyster reef projects are being done now with the help of oyster industry now. By having a service being provided free by nature should be taken advantage of. This is a feature being shared on the state Master Plan for a Sustainable Coast by figuring out how it contributes to shoreline stability in that area. The Nature Conservancy was studying a model on what would happen if the reef stayed as it was, or if 1/3 or 2/3 was removed to gauge the shoreline protection provided by the reef. They also have information on reefs removed, not by the oyster industry, cause an increase in the erosion in the area. The

Coastal Protection and Restoration Authority felt this was a multi-jurisdictional issue and urged the agencies work together to develop science based recommendations for the harvest. The Nature Conservancy supported the Department's recommendations. Commissioner Broussard asked Ms. Gautreaux if she had seen maps that compared Calcasieu and Sabine and the degree of erosion or was it that particular point of land had eroded less. Ms. Gautreaux stated there was very little erosion in Sabine but more in Calcasieu Lake. Commissioner Voisin appreciated the comments by Ms. Gautreaux. He then noted the Vermilion Bay reefs were shell that were dredged to their base which was potentially creating additional erosion. The state licensed the harvest of dead reef shells for years and land was actually growing and stable in that area east of Vermilion. Oil and gas activity have created significant challenges in the Calcasieu area, added Commissioner Voisin. Ms. Gautreaux knew what happened when a subsurface was removed, but it was not known how much would be affected. Commissioner Taylor asked if the oyster reef in Sabine was different from other vertical reefs. Ms. Gautreaux stated that the Nature Conservancy has shellfish experts that completed a nationwide survey on the health of shellfish and in Louisiana it was oysters. Results showed about 85 percent of the shellfish populations are gone but Louisiana has one of the few areas where there is a wild oyster catch. The Sabine reef was closed in 1966 due to water quality concerns. A vertical reef structure provides habitat diversity, water quality improvement and was a different quality of shoreline protection since it was vertical. While the reef developed due to problems with water quality, Ms. Gautreaux felt it continued to serve the coast in erosion. She added that they are not familiar with any structures similar to the Sabine reef. Commissioner Graham asked what was the size of the area and Ms. Gautreaux stated it was about 1500 acres which sits between Texas and Louisiana. She added that Texas has had no harvesting on their side.

Commissioner Graham then asked Mr. Banks if the Department was not recommending harvesting on the reef and he was told that was correct. He then asked about Commissioner Voisin's suggestion in harvesting from a small area for testing purposes. Mr. Banks stated that as a scientist, it did make sense; but the Department felt it was right to keep the area closed until the advisory group was complete. The Department was in their second year of actively sampling the area. Commissioner Graham asked how long would it take to finish the sampling and Mr. Banks could not say since it depended on the data quality as it came in. Commissioner Broussard asked for the reason the Health Department has agreed to allow harvest in the area and Mr. Banks stated the water quality has been classified as suitable for harvest. Commissioner Broussard asked

if the water quality concern came from industrial activity or from the Reservoir and he was told it could come from a chemical issue but it also could come from animal waste. Commissioner Broussard felt the Health Department considered the best times to harvest as the summertime and Mr. Banks agreed, stating it was basically March through October. Then he asked about water quality testing by the Health Department. Mr. Banks explained that the Department of Health uses a long history of samples when sampling and closing an area and in Sabine there has only been a few years of sampling data but it does meet the requirements of the National Shellfish Sanitation Program. But as the data sets grows over time, their recommendations for the months to open may change. Commissioner Voisin stated the data has been collected from monthly samples since 2004 that the FDA used to allow the opening. Commissioner Broussard asked what percentage of oysters or reef from Sabine was on the Texas side. Mr. Banks stated that Texas people have told him Louisiana has the majority of the reef acreage. Commissioner Voisin then talked about Pleasure Island being built off Texas' side of Sabine.

Secretary Barham stated the Coastal Protection and Restoration Authority (CPRA) was one entity that could "trump" the Commission and they notified the Department that the Sabine reef was critical to protection against coastal erosion. He then commented that the CPRA will not approve the opening of Sabine Lake at this time. Secretary Barham then mentioned there have been discussions with Texas on joint regulations for border waters and an agreement was reached on Sabine Lake and Toledo Bend for joint management of fisheries. Texas agreed to all of the regulations, but Texas requested that Sabine Lake not be opened and at that time it was not an issue. Now the Health Department has lifted the restriction and Secretary Barham said he has been asked by the oyster industry to allow oyster harvesting in the eastern third. He contacted Texas about the idea of opening Sabine Lake and the Secretary was told by Texas that they had not changed their position. Secretary Barham noted that they needed to work carefully with Texas. Commissioner Voisin felt Texas was negotiating like terrorists and it was absurd. He added he was happy that CPRA was engaged in the debate, but the law allows for harvest in Sabine and the Commission has to make a decision on the seasons. Secretary Barham commented, to the extent possible, Texas has agreed to change their freshwater fishing regulations to match Louisiana. He then urged the Commission to be considerate of their requests. Again, Secretary Barham stated CPRA would not approve harvest in Sabine.

Ms. Cynthia Duet, National Audubon Society, stated the Commission has heard all of the basic issues faced with keeping Sabine closed. She felt the meeting after meeting banter was not helping to

resolve the issue, there are still questions to be answered that remain even from when the discussions first began in April. The resolution by Senator Morrish was to get answers to those questions once and for all. The National Audubon Society supported the Department's decision to keep the area closed and let the resolution "do its thing" and revisit only when there is something new to say.

Mr. Rad Trascher, CCA, wished not to speak, but noted CCA Louisiana was against opening Sabine Lake to oyster harvest and supported further studying the resource.

Mr. John Tesvich felt this has been a very interesting debate, but wanted to talk about public comments that were made. A comment was made that the oyster fishermen have diminished their resource and was looking for another place to fish to which Mr. Tesvich said was not true at all. The resource were public reefs managed by the Department and the Task Force works with the Department and Commission in setting the seasons. On the private lease side of the industry, the fishermen have suffered due to hurricanes and BP, but the reefs are still productive. The oyster industry was doing a great job on the private lease side in getting back and they were willing to provide ideas on how to get the public resource back. Then Mr. Tesvich was upset about the talk on coastal restoration and bringing the oyster industry in like they are hurting coastal restoration. He commented that the oyster industry was the number one environmental industry in the state. He offered to talk to anyone about the history of people putting shells trying to stabilize the coast. The western part of the state was a totally different landscape. Mr. Tesvich added that the oyster industry was so far down on the list of industries affecting coastal restoration, that it probably should not even be mentioned. He urged all organizations to look at the facts and who was causing the problems. He knew that the CPRA had their position and had all of the rights to protect coastal restoration. Commissioner Broussard asked Mr. Tesvich if he had any relationship with the Calcasieu Oyster Task Force. Mr. Tesvich stated they have a member from the Calcasieu area on the Task Force. He added the member did not attend the last Task Force meeting and there was no input during the Task Force's deliberations. Then Commissioner Broussard asked what basis was used to determine the oysters needed to be harvested and to open the area to harvest on the east side. Mr. Tesvich stated there are several members of the Task Force that are familiar with the harvest in the area and there have been indirect communications on their needs. Commissioner Broussard had problems with the recommendation to open the east side of the lake since the people he has talked to from that area have said it has been fished out and should not be opened. He asked if the oysters from West

Cove would be a standard product that the world was used to seeing from Louisiana. Mr. Tesvich again noted there was no one at the meeting from Calcasieu and even though snails are moving in, those are still quality oysters. He added if the oyster fishermen were against opening the area, Mr. Tesvich yielded to that and the recommendation from the Task Force was what was being reported. Commissioner Graham understood the comment about the oyster fishermen being the hardest working people to keep the coastal areas intact. The Commissioner also hoped the Oyster Task Force would understand the Department wants the same thing, but he would have a hard time going against the biologist recommendations. Mr. Tesvich felt it was a stretch to say that oyster fishermen would create coastal erosion on the shoreline.

Mr. Al Sunseri stated he was a member of the Governor's Commission on Coastal Protection and Restoration and was flabbergasted that CPRA would oppose opening Sabine Lake. He agreed with Mr. Tesvich that oyster fishermen never did anything to cause erosion but this history fact has fallen on deaf ears. The fisheries people have been left out of the discussions on the Master Plan for the coast. He added there are much bigger vertical reefs (Shell Beach, Cabbage Reef, outside of Black Bay) in the state than the Sabine reef. Mr. Sunseri stated they understand vertical reefs and the protection they provide but eastern Louisiana where the largest reef is located was eroding due to other factors. It was disturbing to Mr. Sunseri that no one opposed the possibility of opening Sabine Lake until the FDA said it was okay to open.

Commissioner Voisin asked if there was a biological concern if there was a 10 sack harvest in East Cove and the Department had the authority to close when necessary. Mr. Banks said he did have a concern with harvesting the east side. Commissioner Voisin then asked if, biologically there were concerns with opening Sabine Lake. Mr. Banks did not feel from a biological perspective a limited harvest would impact the resource, but from a study and research perspective, it was best to keep that area closed. Then Commissioner Voisin made a motion to adopt the recommendations made by the Department relating to the oyster season for 2011-2012. He asked that the motion include the Secretary be required to notify the Chairman prior to a closure. The motion was seconded by Commissioner Taylor and passed with no opposition.

Commissioner Voisin then commented that Senator Morrish had a bill that passed that puts a significant entry on the Calcasieu Lake oyster fishery. There will be 126 vessels allowed to harvest but there are 400 harvesters. Commissioner Voisin felt there was the potential of getting one-third of the oysters out of the area. He asked that the oysters should be managed for everyone.

(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

In accordance with the emergency provisions of the Administrative Procedure Act, Louisiana Revised Statutes (R.S.) 49:953 and under the authority of R.S. 56:433, R.S. 56:435.1, and R.S. 56:435.1.1(D) notice is hereby given that the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby declare the 2011/2012 oyster season as follows:

The Little Lake Public Oyster Seed Grounds as described in LAC 76:VII:521 shall open one-half hour before sunrise on Wednesday, September 7, 2011.

With the exception of Calcasieu and Sabine Lakes, all remaining public oyster seed grounds and reservations, as described in R.S. 56:434, Louisiana Administrative Code (LAC) 76:VII.507, LAC 76:VII.509, LAC 76:VII.511, LAC 76:VII.513, LAC 76:VII.517, and LAC 76:VII.521, including the Lake Machais/Fortuna Sacking-Only Area of the public grounds which is generally Lake Fortuna and Lake Machias to a line from Mozambique Point to Point Gardner to Grace Point at the Mississippi River Gulf Outlet, the Sacking-Only Area in the American Bay area which is that portion of the public grounds within Bay Long west of a line running generally north/south from a point at 29 degrees 31 minutes 13.78 seconds N latitude, 89 degrees 34 minutes 9.79 seconds W longitude to a point at 29 degrees 29 minutes 40.67 seconds N latitude, 89 degrees 34 minutes and 8.48 seconds W longitude, shall open at one-half hour before sunrise on Monday, October 17, 2011.

The oyster season in west cove portion of the Calcasieu Lake public oyster area, as described in R.S. 56:435.1.1, shall open one-half hour before sunrise on Tuesday, November 1, 2011. The sack limit for west cove portion of Calcasieu Lake is set at 10 sacks per person per vessel per day as provided for in R.S. 56:435.1.1. However, these conservation actions shall not supersede public health closures.

The following areas will remain closed for the entire 2011/2012 oyster season:

1. The east side of the Calcasieu Lake public oyster area
2. Sabine Lake Public Oyster Area (as described in R.S. 56:435.1).

The Secretary of the Department of Wildlife and Fisheries is authorized to take emergency action as necessary to close areas if oyster mortalities are occurring or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or where it is found that there are excessive amounts of non-living reef material in seed oyster loads, or if oyster resources and/or reefs are being adversely impacted, or if enforcement problems are encountered. The Secretary shall notify the Chairman of the Wildlife and Fisheries Commission of his intention to close an area.

The Secretary is authorized to take emergency action to reopen areas previously closed if the threat to the resource has ended, or may open areas if substantial oyster resources are located.

Notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such action unless such closure is ordered by the Louisiana Department of Health and Hospitals for public health concerns.

Stephen W. Segrera  
Chairman

Mr. Mark Schexnayder began the next item, **Pre-Moratorium Pending Oyster Lease Application Status** by stating that in 2002 the Commission put a moratorium on oyster leases. At that time, there were 488 applications pending. In 2007, the Commission acted with the Governor's Office and the Department of Natural Resources allowing those leases to move forward. After working with CPRA, the Oyster Task Force and the Governor's Oyster Advisory Committee, notices were being mailed out to the pending applications submitted prior to 2002. Mr. Schexnayder then mentioned these leases total about 30,000 acres of new oyster leases. Commissioner Voisin appreciated the Department's action on this issue. He added the oyster industry has had their community challenged, seen the numbers shrink but applauded the Department for moving forward with this action.

The Commissioners agreed to hold the **January 2012 Meeting** on Thursday, January 5, 2012, beginning at 9:30 a.m. at the Baton Rouge Headquarters.

Chairman Sagrera then asked for **Public Comments**. Mr. Joe Macaluso stated he serves on the Fish Records Committee for the Louisiana Outdoor Writers. In August, there was a new tripletail fly fishing record of 14.15 pounds caught in Lake Borgne. Two other fish, a 13 1/2 pound mangrove snapper and a 4.38 pound lane snapper, were recognized as being in the top 10 for their category.

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

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Stephen W. Sagrera  
Chairman

scf