

LOUISIANA WILDLIFE AND FISHERIES COMMISSION

BOARD MEETING

June 29, 1988

JOE PALMISANO, JR.

Chairman

Baton Rouge, Louisiana

AGENDA

LOUISIANA WILDLIFE AND FISHERIES COMMISSION  
Baton Rouge, Louisiana  
June 29, 1988

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| 1. Roll Call   | 1    |
| 2. Consideration of final approval of proposed lease form for shell dredgers and minimum royalty | 1    |

AGENDA  
SPECIAL MEETING  
LOUISIANA WILDLIFE AND FISHERIES COMMISSION  
BATON ROUGE, LOUISIANA  
June 29, 1988

1. Roll Call
2. Consideration of final approval of proposed lease form for shell dredgers and minimum royalty

MINUTES OF MEETING OF  
LOUISIANA WILDLIFE AND FISHERIES COMMISSION

June 29, 1988

Chairman Joe Palmisano presiding:

Wednesday, June 29, 1988 - 9:00 AM

James Jenkins, Jr.  
Norman McCall  
Warren Pol  
Dale Vinet

Ms. Virginia Van Sickle was also present.

Don Puckett presented a resolution for shell dredging leases to the Commission. After much discussion and modifications of Sections 1 through 18 of the lease form the resolution was unanimously adopted by a motion from Mr. Jenkins and seconded by Dr. Hines.

(The full text of the resolution is made  
part of the record)

WHEREAS, the Commission has considered the recommendations of the Minerals Committee and the comments and recommendations of other interested agencies and groups relative to the issuance of leases for the dredging of shells from state waterbottoms;

THEREFORE, BE IT RESOLVED that the Commission does hereby:

- (A) Adopt a minimum per cubic yard royalty of 80 cents;
- (B) Adopt the attached standard lease form with such modifications as may be reflected in the minutes;
- (C) Set guaranteed annual minimum royalties as follows:
  - 1. Lakes Pontchartrain and Maurepas \$ 640,000
  - 2. East Central Coast 720,000
  - 3. West Central Coast 100,000
- (D) Set a performance bond for these leases as follows:
  - 1. Lakes Pontchartrain and Maurepas \$ 1,920,000
  - 2. East Central Coast \$ 2,160,000
  - 3. West Central Coast \$ 300,000
- (E) Set a bid bond for each lease in the amount of five (5%) percent of the performance bond amount.

RESOLUTION

SHELL DREDGING LEASES

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3. West Central Coast	\$ 100,000

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2. East Central Coast	\$ 2,160,000
3. West Central Coast	\$ 300,000

(E) Set a bid bond for each lease in the amount of five (5%) percent of the performance bond amount.

Baton Rouge, Louisiana this 30th day of June,  
1988.

\_\_\_\_\_  
Chairman, Wildlife and  
Fisheries Commission

\_\_\_\_\_  
Secretary, LA Department of  
Wildlife and Fisheries

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THEREFORE, BE IT RESOLVED that the Commission does hereby:

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(B) Adopt the attached standard lease form with such modifications as may be reflected in the minutes;

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1. Lakes Pontchartrain and Maurepas	\$ <u>640</u>
2. East Central Coast	\$ <u>720</u>
3. West Central Coast	\$ <u>150</u>

(D) Set a performance bond for these leases as follows:

1. Lakes Pontchartrain and Maurepas	\$ _____
2. East Central Coast	\$ _____
3. West Central Coast	\$ _____

(E) Set a bid bond for each lease in the amount of five (5%) percent of the performance bond amount.

BE IT FURTHER RESOLVED that the Commission recognizing the fact that legal constraints may impose a five thousand (5,000) acre limitation of the proposed shell dredging leases, does hereby authorize and instruct Department staff to make such modifications to the guaranteed annual minimum royalty and performance bond provisions of this lease as may be appropriate to conform with the five thousand (5,000) acre lease limitation. Department staff is further authorized and instructed to make such modifications to the bid bond requirement as may be necessary to comply with the five thousand (5,000) acre

lease limitation. Department staff is further authorized and and instructed to make any other modifications to this lease or the bid procedures as may be necessary to comply with the five thousand (5,000) acre lease limitation.

Baton Rouge, Louisiana this 30th day of June, 1988.

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Chairman, Wildlife and  
Fisheries Commission

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Secretary, LA Department of  
Wildlife and Fisheries

**DRAFT**

Shell Dredging Lease  
Alternative Provisions 6/28/88  
(First Alternative)

CANCELLATION/CONCURRENT DREDGING

1. TERM

At end of first sentence, delete the period and add: ", provided, however, that at any time after the expiration of the first lease year, this lease may be cancelled unilaterally by the Commission, but only in the event that the State of Louisiana has developed and is prepared to implement a plan to conduct its own dredging operations for the exclusive use of public projects."

(Second Alternative)

1. TERM

After the first paragraph, insert a new paragraph to read as follows:

"It is expressly agreed between the parties herein that the State of Louisiana shall retain the right to conduct its own dredging operations for shell, on the above described water bottoms, to be used exclusively for public projects."

~~DRAFT~~

6/28/88

LEASE FOR FOSSIL SHELL EXTRACTION  
FROM STATE OWNED WATER BOTTOMS

STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

SHELL LEASE NO. \_\_\_\_\_

WHEREAS, under the provisions of Section 441 of Title 56 of the Louisiana Revised Statutes of 1950, as amended, and other applicable laws, the Louisiana Wildlife and Fisheries Commission advertised for the bids for a lease covering fossil shells on the property described below; and

WHEREAS, in response to required advertisements, bids were received and duly opened in the City of Baton Rouge, Parish of East Baton Rouge, State of Louisiana on the \_\_\_\_\_ day of \_\_\_\_\_, 1988, at a meeting of the Louisiana Wildlife and Fisheries Commission; and,

WHEREAS by resolution duly adopted, the Louisiana Wildlife and Fisheries Commission accepted the bid of

\_\_\_\_\_  
\_\_\_\_\_  
whose mailing address is \_\_\_\_\_  
\_\_\_\_\_

(hereinafter referred to as "Lessee") as being the most advantageous to the State of Louisiana:

NOW, THEREFORE, be it known and remembered the Louisiana Wildlife and Fisheries Commission acting under said authority for and in behalf of the State of Louisiana, as Lessor, does hereby lease unto the said Lessee, the property described below for the purpose of extracting fossil shells and fossil shell material. In connection therewith Lessee shall have the right to use so much of the property as may be reasonably necessary for such operations, subject to restrictions contained in this lease or

applicable permits. The leased property, situated in the Parish(es) of \_\_\_\_\_, State of Louisiana, is more fully described as follows:

as shown on the attached charts which are made a part hereof.

3 yrs. Concessible  
lease

3

1. TERM

The rights and privileges herein granted shall be for a period of five (5) years beginning \_\_\_\_\_ and ending \_\_\_\_\_. This lease shall be subject to all existing oil and gas pipeline rights-of-way, mineral leases and servitudes granted by third parties and the State of Louisiana through the Department of Natural Resources located in the area hereinabove described and of record as of the date of this lease. Nothing herein shall preclude the State of Louisiana from granting future oil and gas pipeline rights-of-way, mineral leases and servitudes to third parties.

2. ROYALTY

As consideration under this lease, LESSEE shall pay the Department of Wildlife and Fisheries, (hereinafter referred to as the Department), a base royalty of \_\_\_\_\_ per cubic yard for all shells and shell deposits removed from the above described water bottoms, during the first lease year.

Beginning on the first day of the second lease year, and on the first day of the lease year in each year thereafter during the balance of this lease, LESSEE shall pay the Department a royalty for each such lease year which shall be increased or decreased from the previous year's per cubic yard royalty provided for above, based on the following formula:

Said base royalty shall be adjusted on the first day of the lease year for the ensuing twelve month period by multiplying said base royalty per cubic yard by the quotient in which the numerator shall be the All Urban Consumer Price Index, or its successor Index, calculated by the appropriate agency of the Federal Government and publicized by the Federal

Bill  
Price

Reserve Bank of St. Louis, Missouri (hereinafter called the ALL URBAN CONSUMER PRICE INDEX), for the month of December immediately preceding the twelve month period for which said royalty is being adjusted, and the denominator shall be the All Urban Consumer Price Index for the initial month of the lease. The resulting quotient expressed in a percentage shall be applied to the base royalty and shall be the basis for the new royalty. In the event the All Urban Consumer Price Index has not been published in time to compute any monthly payment due the Department by LESSEE, then LESSEE shall pay the Department the same royalty paid during the preceding month or months and as soon as the determining monthly All Urban Consumer Price Index is published, LESSEE shall make such adjustments to the previous royalty payments as may be necessary to correctly pay the Department the adjusted royalties due hereunder.

The foregoing notwithstanding, in no event shall the royalty payable by LESSEE to the Department throughout the period of this Contract be less than the base royalty per cubic yard.

Payment in full of royalties for all shells and/or deposits removed by the LESSEE during any one calendar month shall be made on or before the 15th day of the succeeding month, all in a manner consistent with the applicable law of the State of Louisiana. Any unpaid royalties shall be subject to legal interest which shall begin to accrue on the date said royalties are due.

For purposes of this lease, measurements of cubic yards of shell on barges shall be calculated as follows:

$$\text{Volume} = \frac{L}{162} (A + d + 4M) = \text{cubic yards}$$

Where A = Area of top  
d = Area of base  
M = Area of cross section midway  
between top and base  
L = Height

### 3. DATA; AUDIT AND INSPECTION

LESSEE, on or before the 15th day of each month, shall furnish the Department any or all of the following types of data relating to shell production: (1) type of material removed, (2) dates removed, (3) name of vessel, (4) area of dredging, (5) cubic yards removed, and (6) amount due.

These data shall not be deemed conclusive and the Department reserves the right, and LESSEE so agrees, to permit the Department's authorized representative and/or agents and representatives of the Legislative Auditor's Office or the Inspector General's Office to examine any and all of LESSEE'S books, records and memoranda of whatever kind or nature, pertaining to or having any connection whatever with the removal or sale of said shells.

The Department further reserves the right, and LESSEE agrees, to have the Department's agents or representatives and/or agents and representatives of the Legislative Auditor's Office or the Inspector General's Office inspect the barges, boats, and dredges, etc., in which the said shells are removed, and to keep a check on the number thereof, and also to determine by whatever means it may deem necessary, the number of cubic yards of shells which have been removed from the hereinabove described beds or water bottoms, and to require the payment therefor.

LESSEE shall permit routine field inspections by the above personnel for the purposes of verifying:

- a) location of dredges,
- b) direction of effluent discharge,
- c) measurements of quantity of shell aboard, and
- d) compliance with all Department of Wildlife and Fisheries regulations pertaining to shell dredging.

For the purposes of this inspection, the LESSEE shall allow the above personnel to board vessels for inspection of documents and records pertinent to the leases and regulations, positioning equipment, shell cargo, any other operations of the dredge and/or its supporting equipment, and to retrieve Loran-C tapes from recording instruments.

#### 4. EQUIPMENT AND PERSONNEL

LESSEE warrants that it has currently under its exclusive ownership and/or control, or will have by the effective date of this lease, an adequate supply of dredges, adequately powered tow boats for the operating conditions, barges, cranes, machinery, tools and implements of every kind or character which may be necessary to the taking and removal of shell and/or shell deposits under the terms of this Agreement. LESSEE further warrants that it has in its employ a number of skilled personnel sufficient to adequately perform the requirements of this contract. LESSEE also warrants that it has, or will acquire, valid permits issued by the United States Army Corps of Engineers, the Louisiana Department of Natural Resources, the Louisiana Department of Environmental Quality, and any other agencies as may be required by law.

#### 5. LIABILITY, HOLD-HARMLESS, DEFENSE AND INSURANCE

It is expressly understood that the Department and the Commission shall incur no liability or expense of any kind in connection with the ownership, control and operation of such equipment by LESSEE, including but not limited to all court costs, cost of defense and any judgments arising from any claims, actions or causes of action by all third parties, LESSEE, its employees, agents, officers, directors, successors and assigns, their employees, agents, officers and directors caused by LESSEE, its employees, agents, successors and assigns in the exercise of the dredging rights and privileges granted by this lease.

LESSEE agrees that it shall be liable and responsible for property damage or personal injury, whether to property of the State of Louisiana or of any individual, firm or corporation, or to any person or persons, caused by the negligence or breach of contract of LESSEE or by its agents, directors or employees of any kind. LESSEE, its successors and assigns agree to indemnify the Department and the Commission and their officers and employees for all such damage or damages and to hold the Department harmless from all such damage or damages caused by such LESSEE, including assuming the cost and expense of defending all claims, actions, or causes of action which are or may be filed seeking such damage or damages.

It is expressly provided that neither the Department nor the Commission shall have any responsibility or liability relative to navigation of LESSEE'S vessels, nor shall the Department or the Commission have any responsibility or liability to inform or advise LESSEE as to the existence or location of any pipelines, drilling platforms, bridges, causeways, docks, piers or other structures, located on the property which is included within this lease. It is further expressly provided that LESSEE shall bear sole responsibility for the navigation of its vessels and for determining the existence and location of all pipelines, drilling platforms, bridges, causeways, docks, piers or other structures which may be located on or within the property leased herein.

It is further provided that LESSEE will defend, indemnify and hold harmless the Department and the Commission and their officers and employees for any claims, demands, liabilities or causes of action arising out of LESSEE'S taking of shells, including those arising out of the navigation of LESSEE'S vessels, or collisions between LESSEE'S vessels and other vessels, pipelines, drilling

platforms, bridges, causeways, docks, piers or other structures, even if such action is alleged to have been brought about solely, or in part, by the negligence of the Department. It is expressly provided, however, that LESSEE shall not be obligated to defend, indemnify and hold the Department or Commission harmless for any claim which does not directly involve LESSEE'S vessels or equipment and which ~~occurs away from the site or sites of operations.~~ It is further provided that LESSEE shall not be obligated to defend, indemnify and hold harmless the Department or Commission for any claim for worker's compensation filed by any of their employees; provided, however that nothing herein shall preclude the Department or the Commission from maintaining an action for recovery against the LESSEE under the laws of the State of Louisiana, including LSA R.S. 23:1101 et seq. LESSEE shall specifically obtain insurance coverage of this indemnity provision and shall furnish the Department with satisfactory evidence of such coverage of not less than TEN MILLION (\$10,000,000.00) DOLLARS. LESSEE agrees to name the Department as an additional insured under this policy of insurance, and to furnish the Department a copy of same.

In all suits arising out of this contract, the parties hereto agree that Louisiana law shall govern, and that the state courts of Louisiana shall be the proper forum, unless such suit is required to be filed in or is removed to any federal court in this state.

#### 6. OPERATION, LOCATION AND MOVEMENT OF VESSELS

LESSEE further agrees, binds and obligates itself before commencing operations in accordance with this lease, to furnish the Department a map, plat or chart to scale as specified by the Department, of the major areas of the beds and water bottoms hereinabove described and from which LESSEE shall take and remove shells and/or shell deposits,

which map, plat or chart shall have marked thereon the location at which LESSEE shall commence its operations; and from time to time, LESSEE shall notify the Department, in writing, of any and every major change of location of its operations, and by correcting said map, plat or chart aforesaid by marking its new major areas of operation as well as each and every former major area of operation under this lease.

At the Department's request, LESSEE shall notify the Department in writing, at least ten (10) days prior to putting into actual service any dredge, barge or tow boat used in the removal of shells and/or shell deposits, together with the capacity of each, and the Department may thereupon verify the measurements of said barges. In case the giving of such notice by the LESSEE becomes impractical, the LESSEE shall give written notice within ten (10) days after such vessel is placed in service.

Each operating dredge shall be required to have a tamper-proof device, as specified by the Department, installed on board which will plot, map and record all movements and locations of the dredge vessel. Location of the dredge shall be recorded on an hourly basis in Loran-C coordinates.

Each operating dredge shall be required to have on board at all times a person with the authority to stop and/or move the dredge and/or other equipment upon notification by the designated representative(s) of the Department.

LESSEE shall report on a calendar weekly basis, on a form provided by the Department, the daily location(s) of dredging activities and any other information required by the Department. A calendar week shall be defined as Sunday through Saturday. These report forms shall be delivered to the Department on the Monday following the end of the calendar week, or postmarked by that date.

## 7. ADHERENCE TO APPLICABLE PROVISIONS; RESTRICTED ZONES

LESSEE binds and obligates itself to strict adherence to all applicable state and federal permit stipulations, environmental laws, rules, and regulations and not to dredge within three hundred (300') feet of any other shell dredging operations or within any area designated as a restricted zone.

Effluent shall be directed back into the dredged area via a discharge conduit. Dredged areas shall be surveyed with a recording fathometer and copies of each depth profile shall be submitted to the Department of Wildlife and Fisheries on or before the 15th day of the succeeding month. Maximum depth along with the vertical scale shall be indicated on each profile. Location of depth profiles shall be specified using precise Loran-C coordinates (i.e. reported to the nearest 0.1 of the line of position/T.D.). The affected water bottoms shall, to the extent reasonably possible of accomplishment, be returned or restored to a condition as near equivalent to that which existed before said operations were conducted.

### Central Coast Only:

Dredging operations shall not be conducted within restricted areas as shown on the zone chart (Exhibit A) nor within 1,500 feet of natural land masses or exposed reefs. Exposed reefs and natural land masses are defined as those features that are above the water surface at the datum listed as 0.0 feet Mean Lower Low Water (MLLW) on U.S. Department of Commerce, National Ocean Survey, chart numbers 11344, 11349, 11351 and 11356.

Before commencing operations in any given zone the LESSEE shall notify the Department in writing at least ten (10) days in advance as to its proposed zone of the operations and to the best extent possible, the approximate location within the zone. Zones identified in this notice

shall correspond with the zone chart which is attached hereto and identified as Exhibit A.

**Lake Pontchartrain and Maurepas Only:**

Dredging operations shall not be conducted within restricted areas as shown on \_\_\_\_\_.

In order to reduce conflicts between user groups, dredges will be confined at any given time to two (2) of the nine (9) zones as indicated on \_\_\_\_\_. A time schedule shall be provided to LESSEE by the Department indicating which two (2) zones may be dredged in each month of the year.

Zone A as shown on \_\_\_\_\_ shall be considered an alternate zone for inclement weather; and the ten (10) days advance notice referenced in Section 6 above shall not be required.

**8. GUARANTEED ANNUAL MINIMUM ROYALTY**

LESSEE agrees that the quantity of shells removed by it will yield to the Department guaranteed royalties of not less than \_\_\_\_\_ (\$ \_\_\_\_\_) per year, starting with the year beginning on the date hereof, and continuing therefrom throughout the life of this lease. LESSEE further agrees that in the event for any reason LESSEE does not remove sufficient shells to aggregate in total, at the price per yard stipulated above, the guaranteed yield to the Department of \_\_\_\_\_ (\$ \_\_\_\_\_) per year, LESSEE will pay to the Department an amount sufficient to produce the minimum sum of \_\_\_\_\_ (\$ \_\_\_\_\_) per year as stipulated.

Should this lease be terminated at any time other than the end of any lease year, then the \_\_\_\_\_ (\$ \_\_\_\_\_) annual minimum guaranty shall be reduced by the amount of royalty paid by LESSEE to the Department during such lease year, but prior to such

termination, to the end that LESSEE in the lease year of termination shall pay not less than the \_\_\_\_\_ (\$ \_\_\_\_\_) minimum annual guaranty. After making said calculation, should it be determined that any part of said annual guaranty shall be due and owing, then such amount shall be immediately paid to the Department. The words "lease year", wherever used in this lease, shall mean the period beginning \_\_\_\_\_ and ending \_\_\_\_\_.

LESSEE'S obligation to pay this guaranteed annual minimum royalty shall not be relieved or reduced as a result of any force majeure, as defined in Paragraph 15 herein.

The Commission may consider a proportional reduction of the guaranteed annual minimum royalty in the event that an order of the Department or other governmental agency suspends LESSEE'S operations and thereby results in a substantial reduction of shell production; provided however that in no event shall the Commission consider such a reduction when the suspension order is due wholly or in part to LESSEE's own fault or a violation of the provisions of this lease, any applicable permit or any applicable state or federal laws, rules or regulations.

#### 9. TERMINATION FOR CAUSE

In case LESSEE fails to make payment according to the reservations, terms and conditions hereinabove stipulated within the time provided in this agreement, or should LESSEE fail or refuse to comply with any provisions in this agreement, on and after ten (10) days from the date said payments are due, or from the date of said failure or refusal to comply herewith, this lease may be revoked, terminated and cancelled; provided that the LESSEE shall be given written notice of any such failure to comply with a provision of this lease, and LESSEE shall have five (5) days after receipt of such notice in which to correct such

default. In the event such default is not cured within the said five (5) day period, then this lease shall be terminated without further formality, except for a written notice of such revocation and termination to be forwarded by the Secretary for the Department to LESSEE at its domicile and to the Clerks of Court in the Parishes wherein the hereinabove described water bottoms are located, by United States mail, postage prepaid. Nothing to the contrary withstanding, the provisions of this paragraph shall not release or relieve LESSEE, its successors and assigns from the liability assumed and established in this lease, arising on or before the date of cancellation or forfeiture of the rights and privileges herein provided.

If actual dredging operations are not commenced hereunder on the leased premises in good faith on or before ninety (90) days from the date hereof, this lease shall then terminate, subject to the above procedure. Be it further provided that if all applicable permits have not been issued within the above ninety day period, the Commission may extend this period upon a showing that LESSEE has made and is making a due and diligent effort to obtain the issuance of same.

Within ninety (90) days after expiration or termination by its own terms of this lease or any portion thereof, either during or after the primary term hereof, LESSEE shall execute and record an appropriate release evidencing such expiration or termination, and shall also supply the Department with a copy or copies thereof properly certified by the recorder or recorders of the parish or parishes in which the leased premises are located. In the event LESSEE fails to timely comply therewith, LESSEE shall be liable for reasonable attorney fees and court costs incurred in bringing a successful suit for such cancellation, and for all damages resulting therefrom. It

is agreed, however, that damages to be paid by LESSEE to the Department shall be one hundred dollars (\$100.00) per day for each day of non-compliance after expiration of said ninety (90) day period, regardless of whether suit is filed for cancellation, and for such additional compensatory damages as the Department may prove.

It is further provided that the suspension of dredging activities shall not constitute a breach by LESSEE of this agreement if said suspension comes about as a result of an order of the Department or another agency of government, and is not due to any fault of LESSEE or any violation of the provisions of this lease or any applicable state or federal permit, statute, rule or regulation.

#### 10. ASSIGNMENT AND SUBCONTRACT

There shall be no assignment or subcontract of this lease or the rights and privileges hereunder without the express written consent of the Department; provided however that such approval shall not be required if such assignment and all rights hereunder are made to a bona fide successor or subsidiary of said LESSEE. Be it further provided that if assignment is made to a bona fide successor or subsidiary of LESSEE, then LESSEE shall give the Department written notice thereof within five (5) days of the date of said assignment. It is expressly understood, that LESSEE, with the written approval of the Department, may assign to or subcontract to any person, firm or corporation, from time to time, and at any time, the right to take and remove shells and shell deposits from the area covered hereby, and in such event, the LESSEE shall contract with such assignee or sublessee to take or remove shells and shell deposits from the area covered hereby and said LESSEE shall remain liable for the performance of all duties and obligations herein imposed. It is further provided that in no event shall LESSEE assign or subcontract the rights to

remove more than fifty (50%) of the shells or shell material to be removed under this lease.

#### 11. PERFORMANCE BOND

LESSEE further agrees and obligates itself to execute, simultaneously with the execution of this lease, in favor of the Department, in the manner prescribed by law, a performance bond in the sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_) with a solvent surety company authorized to do business in Louisiana as surety thereon, conditioned that LESSEE will faithfully, promptly and diligently carry out and perform all of the conditions and obligations herein imposed, described and assumed by this lease, which bond shall be renewable annually during the base term of this lease or any extended period thereof.

#### 12. RELINQUISHMENT OF DATA

Upon termination of this lease, either by the expiration of its term or by forfeiture or revocation, or for any other cause, LESSEE agrees and binds itself immediately to turn over to the Department all maps, records of borings, and other data relative to said shells and/or shell deposits which it may have obtained, and such maps, records, and other data shall be and remain the property of the Department.

#### 13. REMOVAL OF SHELLS FOR SEEDING PURPOSES

The Department specially reserves the right to permit oyster growers to remove such oyster and/or clam shells from any of said water bottoms or reefs within the area above described in this lease as may be required by such oyster growers for seeding purposes only, and with which reservation LESSEE acquiesces and consents.

LESSEE agrees that in the event the Department shall desire to permit oyster growers to remove oyster and/or clam shells as provided, the Department will furnish

to such oyster growers a written order to the aforesaid LESSEE authorizing and directing LESSEE to permit the removal of oyster and/or clam shells by said oyster and/or clam growers.

#### 14. RULES AND REGULATIONS; SUSPENSION OF OPERATIONS

The Department specifically reserves the right to establish rules and regulations on dredging areas in the interest of living resources and suspend the removal of shells and/or other shell deposits from the above described beds or water bottoms by LESSEE and its successors and assigns in the event that the dredging operations by LESSEE and its successors and assigns violate said regulations. Additionally, the Department specifically reserves the right to suspend the removal of shell and/or shell deposits from the above described beds or water bottoms in the event that detrimental environmental impacts occur or threaten to occur. The suspension aforesaid shall remain effective and in full force and effect for such duration or period of time as said dredging operations continue to be in violation of said regulations, cause or produce the damage or damages herein provided and until corrected by LESSEE, and its successors and assigns, to the complete satisfaction of the Department.

#### 15. FORCE MAJEURE

No failure or omission by any of the parties hereto in the performance of any obligation imposed by this lease shall be deemed a breach of this lease or create any liability for damages if the same shall arise from any cause or causes beyond the control of such party and without the fault or negligence of such party, including acts of God, acts of the public enemy, war, rebellion, sabotage, insurrection, riot, invasion or strike.

#### 16. SHELL PLANTS

The Department shall have the right to negotiate with the LESSEE for the planting of shells for oyster cultivation and to require the LESSEE to deduct the cost of such planting of shells from the royalties due the Department by LESSEE. LESSEE agrees in good faith to negotiate with the Department for the planting of shells for oyster cultivation and the quantities and value of said shell shall be determined at the time of purchase.

#### 17. IN-KIND ROYALTY

The Department reserves the right, for any public purposes, to take in-kind, all or any part of the portion due as royalty on shells removed hereunder, which option shall be exercised by written notice to LESSEE at any time and from time to time while this lease is in effect. The value of said shells shall be determined at the time of acceptance by the Department.

#### 18. SEVERABILITY OF PROVISIONS

If any provisions of this lease shall be decreed invalid or unenforceable, the remainder of the lease agreement shall continue in full force and effect.

#### 19. AMENDMENT OR TERMINATION BY AGREEMENT OF PARTIES

This document contains the entire agreement between the parties and cannot be changed or terminated orally but only by an agreement in writing and signed by the party against whom enforcement of any waiver, change, modification or discharge is sought,

THUS DONE, READ, ACCEPTED, AND SIGNED by the parties hereto in the presence of the respective undersigned witnesses, as of this \_\_\_\_\_ day of \_\_\_\_\_, 1988, which shall be the date of this lease for all purposes.

WITNESSES

\_\_\_\_\_  
\_\_\_\_\_  
  
\_\_\_\_\_  
\_\_\_\_\_

WILDLIFE AND FISHERIES  
COMMISSION

BY: \_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
LESSEE

WITNESS FORM OF  
ACKNOWLEDGEMENT FOR WILDLIFE AND FISHERIES COMMISSION

STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

BEFORE ME, the undersigned authority came and appeared \_\_\_\_\_, who by me being first duly sworn, deposed and said:

That he is one of the witnesses to the execution of the foregoing instrument and that he saw \_\_\_\_\_ sign said instrument as \_\_\_\_\_ of the Wildlife and Fisheries Commission for and on behalf of the State of Louisiana, in the presence of appearer and \_\_\_\_\_, the other subscribing witness.

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Notary Public

WITNESS FORM OF  
ACKNOWLEDGEMENT FOR CORPORATE LESSEE

STATE OF LOUISIANA

PARISH OF \_\_\_\_\_

BEFORE ME, the undersigned authority came and appeared \_\_\_\_\_, who by me being first duly sworn, deposed and said:

That he is one of the witnesses to the execution of the foregoing instrument and that he saw \_\_\_\_\_ sign said instrument as \_\_\_\_\_ of \_\_\_\_\_ as the free act and deed and said corporation in the presence of appearer and \_\_\_\_\_, the other subscribing witness.

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Notary Public

WITNESS FORM OF  
ACKNOWLEDGEMENT FOR INDIVIDUAL LESSEE

STATE OF LOUISIANA

PARISH OF \_\_\_\_\_

BEFORE ME, the undersigned authority came and appeared \_\_\_\_\_, who by me being first duly sworn, deposed and said:

That he is one of the witnesses to the execution of the foregoing instrument and that he saw \_\_\_\_\_ execute said instrument as his own free act and deed in the presence of appearer and \_\_\_\_\_, the other subscribing witness.

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Notary Public



DEPARTMENT OF WILDLIFE AND FISHERIES

June 28, 1988

SPECIAL SHELL DREDGING MEETING RESCHEDULED

The Louisiana Wildlife and Fisheries Commission has rescheduled a special meeting to take final action on a proposed new lease form for shell dredgers operating in state waters.

The Monday meeting was changed to Wednesday, June 29 at 9 a.m. at the Quail Drive headquarters of the Louisiana Department of Wildlife and Fisheries in Baton Rouge.

The commission will initially conduct the meeting as a public hearing, allowing interested parties in attendance to voice their opinions on the new lease form, said Bettsie Baker, department undersecretary.

She explained that the department is writing the new lease form in preparation for changing over from a negotiated contract with shell-dredging firms to an open-bid system.

The commission will also provide the opportunity for those in attendance to discuss the minimum royalty to be charged. The commission's four member minerals committee will then submit the revised lease to the full commission for a final vote.

*Fy I:  
Hand delivered to the  
wire services. Monday  
night June 27.  
SAA.  
Also  
Tuesday ~~am~~ prior to 9 a.m.  
hand delivered to all bureaus  
offices at the capital.*

AGENDA  
SPECIAL MEETING  
LOUISIANA WILDLIFE AND FISHERIES COMMISSION  
BATON ROUGE, LOUISIANA  
June 27, 1988

1. Roll Call
2. Consideration of final approval of proposed lease form for shell dredgers and minimum royalty.