

LOUISIANA WILDLIFE AND FISHERIES COMMISSION

BOARD MEETING

September 8-9, 1988

JOE PALMISANO  
Chairman

Baton Rouge, Louisiana

AGENDA  
LOUISIANA WILDLIFE AND FISHERIES COMMISSION  
BATON ROUGE, LOUISIANA  
September 8-9, 1988

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MINUTES OF MEETING OF  
LOUISIANA WILDLIFE AND FISHERIES COMMISSION

September 8-9, 1988

Chairman Joe Palmisano presiding:

Thursday, September 8, 1988

Jack Cappel, Jr.  
Don Hines  
James Jenkins  
Norman McCall  
Warren Pol  
Dale Vinet

Vice-Chairman Don Hines presiding:

Friday, September 9, 1988

Jack Cappel, Jr.  
James Jenkins  
Norman McCall

Ms. Virginia Van Sickle was present at both meetings.

The minutes of the regular monthly meeting of August 4-5, 1988 were unanimously approved at Thursday's meeting with a motion from Dr. Hines and seconded by Mr. Jenkins.

Bennie Fontenot presented a Notice of Intent for netting regulations in Black and Clear Lakes, Natchitoches and Red River Parishes. Dr. Hines made a motion to approve the Notice of Intent, seconded and was unanimously approved.

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

Pursuant to the authority granted under Louisiana Revised Statutes, Title 56, Section 22, the Louisiana Wildlife and Fisheries Commission hereby advertises its intent to prohibit the use of gill and trammel nets in Black Lake and Clear Lake in Natchitoches and Red River Parishes. The proposed ban will extend from January 1, 1989 to December 1990.

Mr. Richard Cochran from the Shikar-Safari International presented the Office of the Year Award to Jimmy McCoy.

Johnnie Tarver presented a resolution to recommend dates for the 1988-89 Fur Harvest Season. Greg Linscombe presented some information with a slide series. Mr. Jenkins made a motion to approve the resolution, seconded by Mr. Vinet and passed unanimously.

(The full text of the Resolution is  
made a part of the record)

WHEREAS, the fur industry of Louisiana represents a major resource of economy and income for many of the citizens of our state, and

WHEREAS, this resource is a renewable natural one, which has proven under wise management to increase in importance in our state, and

WHEREAS, an annual harvest of the surplus animals is in keeping with wise wildlife management techniques based on scientific management, and

WHEREAS, federal restrictions imposed by the CITES Scientific Authority concerning out-of-state shipment for otter and bobcat furs will again require placement of a possession tag by trappers or buyers to insure state of origin, and

WHEREAS, the zonation concept has continued to be beneficial in reducing late caught unprime furs and has produced mainly favorable comments generated within the fur industry, now

THEREFORE BE IT RESOLVED, that the Department of Wildlife and Fisheries does hereby establish the 1988-89 furbearer trapping season for the south zone as being December 1, 1988, through February 28, 1989. After carefully considering the market situation for some upland species, especially the raccoon, the Department, in an attempt to provide more opportunity for trapping of bobcat and fox after deer hunting seasons are closed, does hereby establish the 1988-89 furbearer trapping season for the north zone as November 20, 1988, through February 15, 1989, with the addition of an experimental season from February 16, 1989, through March 15, 1989, with trapping techniques restricted to the use of Soft-Catch traps (padded jaw traps) or their equivalent.

BE IT FURTHER RESOLVED, that the attached regulations governing the buying, tagging and shipment of bobcat and otter pelts are adopted for the 1988-89 trapping season.

BE IT FURTHER RESOLVED, that the Department Secretary shall be authorized to close or extend the trapping season as biologically justifiable.

Johnnie Tarver also presented a rule to ratify the rules and regulations for wildlife management areas and refuges in the Fur and Refuge Division. Mr. McCall made a motion to ratify this rule, seconded by Dr. Cappel and passed unanimously.

(The full text of the rule is made a  
part of the record)

The Fur and Refuge Division manages approximately 500,000 acres of wetlands in the coastal zone that includes both refuges and wildlife management areas. In compliance with the Deeds of Donation only certain activities are permitted on the refuges. To promote and encourage wildlife habitat utilization by both

wildlife species and user groups, rules and regulations are required governing the uses. Adjustments made to the resolutions approved by the Louisiana Wildlife and Fisheries Commission appear in the record throughout many years. In order to simplify and clarify the existing rules and regulations for publication in the Administrative Code, Title 76, the Louisiana Wildlife and Fisheries Commission is readopting each set dealing with all refuges and wildlife management areas.

Phil Bowman presented the Survey Report for August 1, through September 1, 1988. During the period field activity consisted of 188 surveys that were scheduled, 68 surveys were unable to be done due to bad weather or fishermen unable to meet surveyor. Lease rental collected was \$1,472.92, survey fees collected were \$110.00, two applications were filed, 244 new leases were issued and 15 surveys were done by a private surveyor.

It was suggested that the survey report and the seismic report not be given at the meetings. This information will be mailed to the Commission members and will be kept for the record.

Phil Bowman presented a Notice of Intent oyster lease survey regulations. At Friday's meeting Mr. Jenkins made a motion to approve the Notice of Intent, seconded by Dr. Cappel and passed unanimously.

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

#### NOTICE OF INTENT

Department of Wildlife and Fisheries  
Office of Fisheries

#### Oyster Lease Survey Regulations

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Department of Wildlife and Fisheries, Office of Fisheries, is hereby giving notice of its intention to amend LAC 76:"VII.501. The primary effects of the amendments are to revise specifications for the taking of applications between existing leases, to create a fee for each shotpoint in excess of 6 when surveying a lease or application, and to create a fee for computations done for the convenience of the lessee. The REVISED RULE shall read:

LOUISIANA DEPARTMENT OF WILDLIFE AND FISHERIES  
SEAFOOD DIVISION REGULATIONS  
FOR FISHERIES-SURVEY SECTION

#### A. Office Policies and Procedures:

1. Office hours will be from 8:00 AM to 4:30 PM, Monday through Friday excluding state holidays.

2. No one is to go into the lease document or quadrangle files, or application registration without permission of and accompaniment by designated office personnel.

B. The taking of Oyster Lease Applications:

1. a. There shall be a fifty foot (50 feet) buffer zone established between new leases. However, by mutual written consent of applications of adjacent water bottoms the lease boundaries may be common.
  - b. Where distances between oyster leases are two hundred feet (200 feet) or less, no applications or leases shall be taken or issued except that the intervening space may be shared equally by the existing lessees or applicants if properly applied for and leased in accordance with existing policies and practices.
  - c. No new application will be taken whose length exceeds its narrowest width by more than a factor of three (3) except as follows:
    - 1) between existing leases where all available water bottoms are taken
    - 2) in bayous (or similar configurations; connections or cuts between bays, lakes and ponds, etc.) where all available water bottoms are taken with a subservient clause prohibiting an impedance of reasonable navigation.
    - 3) a lessee may at the time of renewal request to take up his lease plus existing shoreline erosion not to exceed 100 feet along any shoreline providing that it does not conflict with an existing lease or application.
    - 4) a lessee may once and only once during the life of a lease submit a revised survey by a private surveyor to take up existing erosion not to exceed 100 feet along any shoreline providing that it does not conflict with an existing lease or application.
    - 5) no applications will be taken to divide an existing lease into two or more leases.
  - d. Any applications for an oyster lease may be contoured to follow the shoreline.
2. If an applicant does not keep his appointment with a surveyor his application will be cancelled. The applicant will be notified of action taken and be given an opportunity to reinstate the application

with an additional payment of the survey fee within fourteen days of the cancellation notice. When the department surveyor cannot keep his appointment all efforts will be made to notify the applicant.

3. a. If any survey of existing leases by the surveyor of the department shows an overlap, the department will abstract the leases involved and eliminate the overlap, giving the area to the longest continuously uninterrupted lease and shall notify the lessees of the action.
- b. If any survey of an application for new area shows an overlap of an existing lease and the applicant has not applied for restakes of the overlapped lease the application will be cancelled. The applicant will be notified of the action taken and be given an opportunity to re-instate the application with an additional payment of the survey fee within fourteen days of the cancellation notice. An application cancelled for overlapping an existing lease will not be rescheduled until the restakes required to resolve the overlap have been applied for.
4. All applicants must appear in this office to place applications for survey and lease, or provide power of attorney to agents to act in their behalf.
5. Annual rental notices will be mailed to lessees at least 30 days in advance of due date which is January 1 of each year.
6. A fee of \$10.00 per lease will be charged for transfer of oyster lease.
7. A fee for all extra maps, leases, plats or documents, will be charged as follows:

All maps	-	\$10.00 per copy
Plats	-	\$ 5.00 per copy
Lease Documents	-	\$ 5.00 per copy
Other material	-	\$ 1.00 per copy
Computations (Lambert to Latitude Longitude)	-	\$ 2.00 per point

8. Survey Application Fees:

- a. Survey application fees for new leases after the moratorium is lifted will be as follow:

<u>Acres</u>	<u>Dollars</u>
10 or less	\$100.00
11 - 20	\$150.00
21 - 200	\$ 2.50 additional for each acre after 20
201 - 1000	\$ 1.50 additional for each acre after 200

An additional survey fee of \$10.00 for each shotpoint in excess of 6, excluding shore shots, will be paid prior to approval of any lease.

- b. Survey application fees on leases expiring by 15-year limitation are established as follow:

<u>Acres</u>	<u>Dollars</u>
10 or less	\$ 70.00
11 - 20	\$105.00
21 - 200	\$ 1.75 additional for each acre after 20
201 - 1000	\$ 1.15 additional for each acre after 200

An additional survey fee of \$10.00 for each shotpoint in excess of 6, excluding shore shots.

- c. Survey application fees for RESTAKES of one's own lease are established as follow:

\$25.00 PER SHOT POINT

- d. Survey application fees for RESTAKES of someone else's lease are established as follow:

\$90.00 for the first two shot points

\$50.00 for each additional shot point thereafter

- e. The Survey Section shall notify owner(s) of lease to be restaked.
9. If an oyster farmer knowingly has a private surveyor survey over an existing lease or application, that application is cancelled and will constitute cause for the private surveyor to be barred from surveying oyster leases for a one (1) year period.

C. Private Surveyors Surveying Oyster Leases for Oyster Farmer:

1. All Surveyors must appear in person in the office of the Survey Section of the Department of Wildlife and Fisheries to research information pertinent to their surveys.
  2. Surveyor to be charged the basic rate for copies of documents needed.
  3. All controls and corners of oyster surveys to be tied into the Louisiana State Plan Coordinates System.
  4. All surveys must comply with R.S. 56:427, B which requires the lease not to exceed the initial application by more than 10% compliance by negotiation with the applicant. If unacceptable, application will be cancelled and all fees forfeited.
  5. Surveyors to execute properly surveyor's certificate appearing on reverse side of original application on file in the Oyster Lease Survey Section, or a photocopy of the original.
  6. Surveyors must furnish the Department of Wildlife and Fisheries Survey Section with the original field notes on standard 4-1/2 x 7-1/2 looseleaf sheets.
  7. Surveyors to note in the original field notes any activity in or adjacent to or on surveyed area, or any existing structures, etc.
  8. Survey plats to be drawn in black ink on forms furnished by the Louisiana Department of Wildlife and Fisheries Oyster Lease Section and original tracing to become the property of same.
  9. The acreage of all surveys, even though calculated to tenth or hundredth of acre, to be rounded off to the next highest acre.
  10. Application number and ownership on all survey plats to be shown on original application.
  11. No land area to be included in survey. Probing to be done at random throughout the surveyed area to determine type of bottom and results noted on original field notes, along with tidal information.
  12. Use standard signs and symbols.
  13. The Louisiana Department of Wildlife and Fisheries, Survey Section will provide all information needed to perform the Survey.
  14. Noncompliance with the above twelve (12) items (C, 1-12) after 30 day notification from the Department by certified mail, shall result in cancellation of the application and forfeiture of all fees to the Department.
- D. 1. Complaints in the field are to be handled in the following manner.

- a. The oyster farmer should allow the survey to be completed in all situations. The surveyor has his instructions.
  - b. If the oyster farmer is dissatisfied with the survey after completed, he may register his complaint with the survey office within 14 days of date of survey.
  - c. Survey crew is to note that the oyster farmer will complete the survey under protest at time survey is being performed.
  - d. If the oyster farmer prevents survey from being completed in the field, his application will be cancelled. The oyster farmer has 14 days from postdate on letter notifying him of said cancellation to come into the office and pay survey fee and have application reinstated.
2. In an effort to comply with R.S. 56:425 D, which allows the Department to settle disputes and R.S. 56:427 C requiring compact leases, and policy B-1, the Department has the authority to grant applications to settle boundary disputes particularly as it is associated with shoreline erosion.

E. Oyster Lease Posting Requirements

1. In an effort to comply with R.S. 56:430, Paragraph B, and to keep within the constraints of Title 14, Section 63, dealing with criminal trespassing, the following are the posting oyster lease requirements:
  - a. The oyster lessee or person seeking to post the oyster lease shall place and maintain signs along the boundaries of the property or area to be posted. These signs shall be written in the English language.
  - b. The signs shall have letters at least three inches in height and shall be of sufficient size and clarity to give notice to the public of the location and boundary of the oyster lease. The signs shall be placed and maintained at intervals of not more than one-fifth of a mile and shall be at least three to twelve feet above the water level.
  - c. At the main entrance to the property and at no less than at all corners along the boundary of said property, the party seeking to post same shall include his name or initials in addition to the lease number.
  - d. In marsh areas and canals, posted signs shall also be placed at all major points of ingress and egress.
  - e. In open water all signs are to be placed facing outward.

- F. 1. Applications will remain in effect for a period of three years. At the end of three years any applications not surveyed by this department or a private surveyor will be cancelled.
2. Upon death of an applicant the estate will have 180 days to appoint a representative to deal with the survey of applications. If the department has not been notified with 180 days the application will be cancelled and survey fees will be retained.
3. No application for lease shall be transferrable.
4. An applicant will be required to outline on a department map the area for which he wishes to apply. Pursuant to R.S. 56:427(A), each element of the verbal description written on the application must be met by the survey plat. Additionally, the survey plat must conform completely to the map outline attached to and made a part of the application; provided, however, that deviations from the map outline (but not the verbal written description) are permitted when such a deviation would not encroach on a neighboring lease or application, or when the signed, written consent of the leaseholder or applicant whose lease or application would be affected, has been granted. In no case will an applicant survey outside of his verbal written description.
5. a. In the event of department error which results in an application being taken in an area where there is a prior undisclosed application or lease which prevents the applicant from taking the full amount of acreage applied for in the area described, the following procedure shall apply: the applicant shall have the option of (a) taking all available remaining acres within the originally described area in a lease and receiving a prorata refund of unused survey application fees for any loss of acreage or (b) taking all applied for acres in one lease outside of the originally described area (c) if neither of the above options is acceptable to the applicant, the applicant may have his original application cancelled and receive a full refund of the survey application fee.
- b. The applicant shall have thirty days from the date of notification of the conflict to exercise the above options.
- c. If the applicant exercises the option as set out in paragraph 5.a.(1)(b) above shall be held to the amount of acres in his original application plus ten percent.
- d. In all such cases, the department shall have final approval of all relocations.
- e. Before having the relocation area surveyed, it shall be necessary for the applicant to submit a new application for the area of relocation. This application shall be identified as a "relocation" application and shall indicate the old application by

number for which it is being substituted and shall also be approved in writing by the Chief of the Oyster Survey Section, the Chief Surveyor of the Department, and the Chief of the Division.

- f. All relocations shall follow this procedure. No survey shall proceed until the properly completed relocation application has been submitted, accepted and approved. No survey is authorized without the above procedure being followed nor shall the department be responsible for the cost of any survey performed prior to final approval of the relocated application.
- 6. No application for new area will be accepted from any person not of the full age of majority (18 years).
- G.
  - 1. Upon lifting of the moratorium a date will be set for the taking of appointments to make applications.
  - 2. Each appointment will be for a 30 minute period and will allow the applicant to make one (1) application.
  - 3. If all applicants have received appointments and there are still openings, an applicant can go to the end of the line and make another appointment for one (1) application. An applicant may continue to go to the end of the line and make appointments as long as applications are available.
  - 4. In subsequent years the number of applications not surveyed by July 1 will be determined. This number will be subtracted from a base of 500 to determine the number of applicants to be accepted. On the first business day in August appointments will be taken and the rules in paragraphs G-3 and G-4 will apply.
- H. Policy to comply with laws concerning default in payment of rent on oyster leases. (Non-compliance R.S. 56:429)
  - 1. On the first working day in February of each year, the Survey Section will compile a list of leases that are in default (R.S. 56:429). After compiling the list each owner will be notified by certified mail that his lease is in default and will be offered at public auction on the last Tuesday in March. He will also be notified that all works, improvements, betterments, and oysters on the leased area are the property of the State and that the Enforcement Division of the Louisiana Department of Wildlife and Fisheries has been so notified.
  - 2. On the first working day following the last day of February all leases still in default will be advertised in a newspaper in the parish in which the lease is located. After the placement of the advertisement, advertisement cost will be added to the lease rent plus 10%. Up to and including the last Monday in March the leases may be reinstated by payment of the rent due plus 10 percent and the advertising cost if applicable.

3. On the last Tuesday in March the auction will be held at a place to be designated by the Louisiana Department of Wildlife and Fisheries. The auctioneer will be the chief of the Seafood Division or whomever he wishes to designate. The opening bid for each lease will be the rent due plus 10 percent and advertising cost. All sales must be paid for in cash or by certified check.

The auction will start with the lowest numbered lease and continue numerically until completed.

4. Any leases not sold at auction will be removed from the Survey Section maps. The area will be open and may be taken by application at the yearly opening.

I. Procedures to comply with R.S. 56:432 and Council Memo dated December 2, 1983.

1. The Survey Section will keep an indexing system to determine the acreage held by all oyster lease holders.
2. No application will be accepted that will cause an applicant to exceed a total of 1000 acres under lease and application. Reference R.S. 56:432.
3. No lease will be issued to an oyster lease holder that will cause his account to exceed 1000 acres under lease unless he qualifies for additional acres by the ownership of oyster canning plants.
4. An oyster lease applicant will be given 30 days to reduce lease acreage prior to cancellation of any application that would cause his lease acreage to exceed 1000 acres. If the reduction is not made within 30 days the application will be cancelled and all fees retained by the Department.

Interested persons may submit written comments on the proposed rule no later than 30 days from the date of publication of this notice of intent to: Ronald Dugas, Seafood Division, 400 Royal Street, New Orleans, Louisiana 70130.

At Thursday's meeting Mr. Jenkins asked if the fee business or the price of these leases was addressed in the Survey Rules. He stated that he thought some consideration should be given to the state of Louisiana for deriving the proper value of the leases and apparently \$2.00 an acre is not the proper value. Mr. Jenkins stated that we certainly ought to consider \$5.00. He also stated that we ought to consider some method by which the state could derive what the leases are worth on the market. Mr. Palmisano stated that several years ago the Commission went through all the public hearings when he was on the shrimp and oyster committee and found that some other states collected considerable more money for their leases and in light of the leasing of the shell dredging bids he would like to see the fee schedules looked over. Mr. Pol suggested that we add it when we hold the public hearing. Dr. Hines suggested that if we are going to address the increase in oyster leases it ought to be between now and tomorrow. Mr. Jenkins asked if we could raise the fee to \$5.00 without a public hearing.

Mr. Puckett stated that if the fee increases, it was his opinion that it would have to be done through the rule making procedure which would be a Notice of Intent. He explained that the rules that are being proposed are procedural rules that are necessary to expedite and to facilitate the issuance of some of the leases. He said that these rules are needed right now and if they could be put on track with a Notice of Intent in a separate rule or Notice of Intent and address the fee schedule in another one then one rule would not be bound by the other one. Mr. Puckett said that the Commission could still have a public hearing for both rules at the same time. This would not jeopardize the procedural rules which are much needed with the controversy that can be anticipated. Mr. Vinet asked one question. Why do we have to have a hearing for \$2.00 or \$5.00 when you know the only people who will be there will be oyster people and they are going to say they do not want it to go to \$5.00, but yet we will put it at \$5.00 anyway. Mr. Puckett stated that it has to go through the Administrative Procedure Act, in his opinion, in other words the Commission has the authority to set that lease fee and the law is silent on how that is to be done and it should be done through rulemaking which contemplates a public hearing. Mr. Palmisano stated that they would delay taking action on this and tomorrow, if it is the wishes of the Commission to prepare another Notice of Intent that we could adopt for the fee schedule for the leases and adopt them separately as Mr. Puckett suggests and hold the same public hearing for both matters. Mr. Puckett said there was one problem with that and he would go ahead and point it out now; there is nothing on today's agenda that addresses an increase in the fee schedule. Mr. Palmisano stated that they just wanted to have a Notice of Intent and proceed with notifying the public that we will be considering an item. Mr. Puckett stated that was part of it but the open meetings law requires a public body to state on its agenda all the items that are going to be taken up. Survey rules are on the agenda, it does not specifically state an increase in the lease fee. His fear was that they might find themselves in the same procedural jam that we found ourselves back in January. He stated that they do have the right to take up a matter that is not on the agenda by a two-thirds vote even though it is not published. Mr. Jenkins stated that he did not see anything wrong with doing that, we are just trying to get started on it. Mr. Jenkins suggested that the item be added to the agenda tomorrow. Mr. Palmisano asked for a motion to suspend the rules. Mr. Jenkins moved that the item be added to the agenda tomorrow for an intent to hold public hearings on the fee structure for oyster leases for the state of Louisiana. Mr. Pol seconded the motion. It was unanimous to place the item on the agenda.

At Friday's meeting, Phil Bowman presented the Notice of Intent requested by the Commission to increase oyster lease rental. Mr. McCall made a motion to approve the filing of the Notice of Intent, seconded by Mr. Jenkins and unanimously passed.

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

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), and R.S. 56:428(C), the Louisiana Wildlife and Fisheries Commission is hereby giving notice of its intention to amend LAC 76:VII to amend Paragraph 503. R.S. 56:428(C) provides that "the Commission shall fix the rate of rental

for oyster leases at not less than one dollar nor more than five dollars per acre per year". Existing regulations fix the rate of rental at two (2) dollars per year. The new regulation will fix the rate of rental at five dollars per acre per year. The new rule shall read: 503. Rental Rate The rate of rental for oyster leases shall be five dollars per acre or fraction of an acre per year.

Interested persons may submit written comments on the proposed rule no later than 30 days from the date of publication of this notice of intent to: Ronald Dugas, Seafood Division, 400 Royal Street, New Orleans, Louisiana 70130.

Rick Kasprzak presented information and a slide series on the artificial reef program. He described the process used to site artificial reefs in offshore waters and the procedure for developing offshore reefs in inshore waters under the Louisiana Fishing Enhancement Act.

A discussion was held concerning the Wallop-Breaux funds. Dr. Hines presented a substitute motion, seconded by Mr. Pol which passed unanimously and Mr. Jenkins withdrew his motion.

(The full text of the motion is made  
a part of the record)

Be it requested that the Louisiana Wildlife and Fisheries Commission, State of Louisiana, include the Feed Your Family Reef Project in the 1988-89 request for Wallop-Breaux funds submitted by the Department should funds be available and not jeopardize projects previously accepted by the Department. If funds are not available during this period, that the project be given top priority for 1989-90 funding year and be expedited as soon as possible in accordance with the Louisiana Fish Enhancement Act, if required.

Mr. Norman McCall asked some questions concerning commercial speckled trout fishing in Calcasieu Lake and Calcasieu River. Mr. John Roussel answered his questions and assured him that the Department has been monitoring this area.

The formal award of shell dredging leases were presented to Dravo. Dr. Hines made a motion to approve Tract 1 (Lakes Pontchartrain and Maurepas) and Dr. Cappel seconded which was approved. The Chairman voted no.

Mr. Jenkins made a motion to approve Tract 2, (Atchafalaya and East Cote Blanche Bay) seconded by Dr. Hines and passed. The Chairman voted no.

A formal rejection was given to Tract 3 (West Cote Blanche Bay and Vermilion Bay) and roll call vote was taken. The chairman also voted no.

Cattle grazing on Saline Wildlife Management Area was discussed. Edward Chevallier requested to have cattle allowed on the area to eliminate some of the undergrowth to make the area more accessible to hunting. No action was taken.

Mike Olinde presented a resolution to ratify the special shooting preserve license. Dr. Hines made a motion to approve the resolution, seconded by Mr. Pol and passed unanimously.

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

WHEREAS, the Louisiana Wildlife and Fisheries Commission has the authority under Title 76, Part IX, Section 656 to provide non-residents hunting on a shooting preserve a special license for a reasonable fee, and

WHEREAS, non-resident hunters frequently participate and enjoy licensed hunting preserves within the state, and

WHEREAS, non-residents are currently required to obtain a non-resident hunting license to utilize Louisiana's commercial hunting preserves, and

WHEREAS, there was no adverse comments to the Notice of Intent for the proposed non-resident preserve hunting license, now

THEREFORE BE IT RESOLVED, that the Louisiana Wildlife and Fisheries Commission does hereby ratify the non-resident preserve hunting license which can be offered to non-resident sportsmen hunting on licensed commercial hunting preserves, now

BE IT FURTHER RESOLVED, that the fee for the special license shall be fifteen dollars (\$15.00).

Hugh Bateman presented a resolution to ratify the pen specifications for game breeders. Mr. Pol made a motion to approve the resolution, seconded by Mr. Jenkins which passed unanimously.

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

WHEREAS, the Louisiana Wildlife and Fisheries Commission has the authority to set requirements and issue licenses for game breeders, and

WHEREAS, the Louisiana Wildlife and Fisheries Commission adopted requirements affecting several aspects of the game breeder licensing procedure, including pen specifications and general requirement at the July 7, 1988 Commission meeting, and

WHEREAS, these general requirements shall apply to applicants for Game Breeders Licenses for all species of wildlife, and

WHEREAS, this information has been processed in accordance with Administrative Procedure Act, now

THEREFORE BE IT RESOLVED, that the Louisiana Wildlife and Fisheries Commission on this date ratifies the pen requirements and other general requirements for game breeders set forth in the attached rule.

Hugh Bateman discussed the Louisiana Waterfowl Conservation Stamp and Print Program. Dave Morrison explained that this program is mandated by Act 632 of

the 1988 Legislative Session. The Department has also requested to amend Act 632 to place the responsibility for the reproduction, distribution and marketing of the prints with the Department instead of the artist.

Bob Dennie presented a resolution to recognize National Hunting and Fishing Day, September 24, 1988. Mr. Jenkins made a motion to approve the resolution, seconded by Dr. Cappel and passed unanimously.

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

WHEREAS, because of the outstanding contributions that America's hunters and fishermen have made to conservation, recreation and the economy, they are deserving of special recognition, and

WHEREAS, since the turn of the century, hunters and anglers have been the leaders in nearly all major conservation programs. These sportsmen-conservationists are responsible for the funding of state fish and game departments in all fifty states. They asked that they, themselves, be required to buy licenses and that the money collected be used to support state conservation agencies, in the last fifty years alone, these sportsmen have provided \$2.5 billion for conservation programs, and

WHEREAS, hunters and fishermen asked for the establishment of regulated seasons and bag limits so that sportsmen could harvest the annual crop of game and fish without damage to the basic breeding population. The result has been that there are now more deer, elk, antelope and wild turkey in the United States than there were fifty years ago. Further, sportsmen's programs have benefitted numerous species of non-game fish and wildlife through habitat development, and

WHEREAS, hunters and fishermen, unique in all America, asked that their fishing and hunting equipment be taxed and that the money be used for land acquisition, research and habitat management for fish and wildlife for the enjoyment of all Americans, and

WHEREAS, through their publications and organizations such as the National Wildlife Federation, Ducks Unlimited, Izaak Walton League of America and many others, hunters and fishermen have led the nation in the battle for a better environment and the wise use of our natural resources, now

THEREFORE BE IT RESOLVED, that the Louisiana Wildlife and Fisheries Commission hereby proclaim September 24, 1988, as National Hunting and Fishing Day in Louisiana. The Commission urges all of our citizens to join with the sportsmen-conservationists in a rededication to the wise use of our natural resources and their proper management for the benefit of future generations. Further, the Commission urges all citizens to take part in National Hunting and Fishing Day activities on September 24, 1988, to learn more about conservation and outdoor skills.

Winton Vidrine gave the Law Enforcement Report for the month of August 1988.

The chairman, Joe Palmisano, was nominated by Mr. Jenkins, seconded by Mr. Vinet which was unanimously approved to serve on the Deer Management Task Force.

The October meeting was set for Thursday and Friday, October 13-14, 1988 in Baton Rouge at the Quail Drive Office.

At Friday's meeting there was some discussion on rescheduling the meetings in order to expedite matters that adhere to the Administrative Procedure Act.

Motion  
Jimmy Jenkins, Jr.  
Commission Meeting  
September 8, 1988

WHEREAS, Wallop-Breaux funds are collected from taxes paid by recreational fishermen, and

WHEREAS, Wallop-Breaux funds are dedicated solely to the use in enhancing recreational fishing, and

WHEREAS, in Louisiana at least 25% of the Louisiana allocation of Wallop-Breaux funds should be used for saltwater fish projects and the current artificial reef program must by law be used for both commercial and recreational fishermen enhancement and it ... the proper vehicle for use of Wallop-Breaux funds, and

WHEREAS, inshore reefs will provide improved fishing opportunities for small boats and recreational fishermen, and

WHEREAS, the State's matching fund requirement is available to donation of materials and equipment, and

WHEREAS, specifically through R.S.56 2A the statutory role of the Commission to determine budgetary policy of the Department,

THEREFORE BE IT RESOLVED, that Wildlife and Fisheries Commission, State of Louisiana that "Feed Your Family Reef" project be included in the 1988-89 request for Wallop-Breaux funds committed by the Department, and

IT FURTHER RESOLVES, that a group be established to determine the exact location for the inshore reef to be built by the project. The group will consist of the following: Commission member, representative of the Oyster Division, of the Coastal Fisheries Institute at LSU, GCCA, Association of Charter Boat Captains, representative of the Louisiana Wildlife Federation.

BE IT RESOLVED, that the group report back to the Commission with its recommendation on at its regular scheduled meeting in November.

Transcript from Minutes of the  
Louisiana Wildlife and Fisheries Commission Meeting  
September 8, 1988

J. Palmisano Item # 7 Notice of Intent Survey Rules

P. Bowman Yessir, Mr. Chairman, members of the Commission, the Commission in 1982 promulgated rules for the taking of applications and rules as well as fee schedules for survey by our Survey Section for oyster leases. We've havebeen in close consultation with legal counsel for the past month, couple months and there is a need to make some modifications to these rules. These rules do not necessarily address fees, except in two particular instances which I will enumerate as I go through. The remainder of the existing fees in this proposed draft, should have it there in front of you are not adjusted. What we're going to be asking you to do is to allow us to go ahead and initiate the Administrative Procedure process by publication of a Notice of Intent and then we will suggest to you, with your concurrence, that the Shrimp and Oyster Committee hold a public hearing on these proposed rule changes to take public input and based on that public input you have the option then of modifying the rules or going with the draft as we have it prepared. I've been advised by legal counsel though that in order to satisfy the Administrative Procedure Act, we need to hold this public hearing with 18 days after publication of the Notice of Intent. If you approve and authorize us to go ahead and proceed we will attempt to have the Notice of Intent published for this Register which will come out on the 20th of this month. That means that you would be looking at having a public hearing prior to October 8th. And maybe we'll suggest the first week of October would be a good time to have it and again that's left up to you. What I would like to do now is to take one or two minutes to point out some of the changes that we're gonna make and I'll point them out in some other generic fashion. If you'll notice in the draft you have there in front of you, you will find that there are some items that are struck through. Those items are, as we are proposing, be deleted and you'll notice there that there are some items in a slightly darker and bolder print, those are the new additions to the rules. The rules do basically six things. They provide that leases when these rules are adopted forward will have to be much more compact than what they are today. And a number of open waterbodies we have some instances where we have some very elongated leases and they have some extremely jagged and convoluted points and size. This is, has presented in some instances, a problem and what we'd propose then is if you'd look under b, Section C, that no new application will be taken to the length that exceeds the narrowest strip by no more than a factor of three. Obviously, we'll provide for some exceptions in areas such as body use and in areas where all the possible ...are being taken by the applicant. So that'll be one of the major changes that we'd proposed. Another problem is that we're attempting to do here is to try to set forward some rules on resolving the problem of noshows. Many times we have a, schedule an application, the applicants are notified two weeks in advance and if they do not show up then surveyors are there just marking time, if you will. Heretofore, they've allowed to have it reinstated after a certain period of time, didn't show up again, have it reinstated again. We're proposed by these draft rules that we tighten this procedure up. If a man does not show then he can have his lease reinstated one time but he has to pay an

additional fee, and then if he doesn't show up that time he may be out of luck, you know he loses the application. One of the other things we're doing is, that's one of the fees that we're attempting to propose here is we have requests from time to time of converting Lambert coordinates which are the survey coordinates that are used by the surveyors into a Longitude/Latitude, but it takes the staff time to do so and heretofore we have done it without charging. But we are proposing a charge for this in these draft rules as well. They're also charges for additional shotpoints. This we think would be an additional incentive to having the leases be in a more compact fashion with not so many jagged points. If you instituted some additional charges for shotpoints over six points. Obviously, if you have a rectangle or a square you have a minimum of 4 points, but if you are given 2 additional points but once you get beyond that then we think there should be some charges for this. There's some ...procedures for correcting errors in applications. When an application is taken and there is an error made there's some additional rules there to tighten that and another one here that we're going to propose that applications not allowed to be transferred. Numbers of times when we accept oyster lease applications when we get down to actually issuing, the application may have been through a half dozen hands. And so we're proposing that the applicant has to come in and make the lease, obviously once he makes the lease then the lease is sold. He has that option of selling it. One other and final point I'll make in this brief discription of a change that we're proposing is that we establish a minimum age for taking an oyster lease and that being the age majority in Louisiana, 18 years of age. We have some leases that are issued to minors at the present time and we're proposing this practice be changed. Anyone applying for a lease should be 18 years of age. Mr. Chairman that's pretty much my sketch if you will of the changes that we are proposing with the draft rules that you have in front of you. If you have any questions I will attempt to answer them. Mr. Ron Dugas is also in the office as well as our legal counsel who has participated in drafting these proposed changes and we would be happy to answer at this time.

J. Palmisano As I understand it we have the authority in which to go ahead with the Notice of Intent at which time the Oyster and Shrimp Committee would have their public hearing. We'll go ahead if that's the proper procedure.

D. Hines I'd like to suggest that we have some time to study and another thing I'd like to ask ... No. 2 when you say on death of an applicant the estate will have 180 to appoint a representative ... to survey of application. And then No. 3 you said no application of lease shall be transferrable.

D. Vinet Application that's not surveyed

D. Hines But they're talking about an applicant up here it's not the holder of the lease, if I understand it correctly. Somebody applying for a lease. It that right?

P. Bowman I think it says the estate will have 180 days to appoint, but I think

D. Hines In F2 you're talking about somebody applying for a lease, rather than somebody who owns a lease?

P. Bowman That's correct, in other words

D. Hines ... heard in his will

P. Bowman We're saying that if a person comes in and makes an application for an oyster lease and he dies then we're saying that the estate of that individual has 180 days to appoint a representative. What we're getting at under No. 3 is where we have someone who comes in and takes a oyster lease application and goes out and sells them or he gives it to someone else who may not be in his family. It also addresses the problem where we have people who pay people to stand in line to make applications for these leases. That was addressed in No. 3.

D. Vinet Like last year and the year before

P. Bowman That's correct. I think No. 2 you know trying to be as fair as we can here and say that the estate, if the individual has an application in his estate and dies the estate or the heirs of that individual should have some rights.

D. Hines You know it seems bad enough that once you get a lease you can keep it in your family for eternity but now when you, I just wonder about that.

J. Jenkins I'd like to ask a couple of questions. Do you address the fee business or the price of these leases in this draft anywhere I haven't had time to

P. Bowman No sir, we do not, as I mentioned

J. Jenkins Alright the fee business is still, the lease business is still \$2.00 an acre.

P. Bowman That's correct.

J. Jenkins And the department derives approximately \$600,000 a year income from the sale of those leases, is that correct?

P. Bowman That's the rental, yes sir.

J. Jenkins And these leases are for like 15 years or some

P. Bowman Yes sir, that's statutory, the statute provides the lease for 15 years

J. Jenkins And the first lease holder has the option to renew that lease himself

P. Bowman Yes sir, as I appreciate the statutes that's the leaseholder has first right of renewal

J. Jenkins This is the way it's perpetuity. People can lease for \$2.00 an acre, just keep it forever by saying no matter who apply for it, we have the right of first refusal. The price never changes, correct?

P. Bowman No sir, the price could change

J. Jenkins It's not changing though

P. Bowman It's not changing here no sir. As I pointed out we have not addressed the aspect of fees or rentals and such as that in this initial draft.

J. Jenkins People do get these leases themselves, don't they?

P. Bowman Yes sir

J. Jenkins I suppose that someone of them sell them for more than \$2.00 an acre.

P. Bowman I would suppose that some of them

J. Jenkins We know they do, let's put it that way. so, I think some consideration oughta be given to the state of Louisiana deriving the proper value of those leases. Apparently, \$2.00 an acre is not the proper value.

W. Pol By law we can go to \$5.00, right

J. Jenkins I don't know what the law is, but I'm just saying, for right now, I think then certainly we oughta considering going to, if \$5.00 is what the law says, we can consider that and I think that we oughta to consider some method by which they could derive whatever they're worth on the market. You don't think so, Doc?

D. Hines I just say if you like big crowds at those hearings, that's all.

J. Jenkins Yea, I guess so, we'd better get a big room

J. Palmisano We did that a couple of years ago when I was chairman of the oyster and shrimp committee, we went through all the public hearings and everything else and some of the other states collect considerable more money. In light of the recent shell dredging deal I would like to see that the fee schedules be looked over for oyster

W. Pol Why don't we add it and let the oyster committee...

J. Palmisano At the same time we'll hold a public hearing and do that at that time

P. Bowman That could be considered, as I appreciate it we have your public hearing

J. Palmisano Separate from this Notice of Intent?

P. Bowman Well if you hold the Notice of Intent, obviously reviewing all the rules, now when you hold the public hearing after the public hearing because we publish the Notice of Intent doesn't mean you have to actually, when you go back to ratify the rule to identical to the Notice of Intent. There could be changes, too.

- W. Pol Yea, but then you would have to hold another public hearing
- D. Hines I think it's a point well taken, I think if we're going to address the increase in oyster leases, we oughta do it between now and tomorrow, let's hold up
- J. Jenkins I agree with you Dr. Hines about voting on it today. Let me ask somebody something, can we raise it to \$5.00 without a public hearing?
- D. Puckett If you raise the fee increases, it is my opinion that that would have to be done through the rule making procedure to withstand any challenge to it which would, of course, be your Notice of Intent in the rulemaking. One way you could approach this and I'd like to give you some comments on this. These rules that are being proposed are procedural rules that are necessary to expedite to facilitate some of the issuance of leases that right now has been jammed up because of questions of how they're being interpreted. These are needed right now you might say. If these can put on track with a Notice of Intent, in a separate rule and separate Notice of Intent address the fee schedule in another, then one would not be bound by the other one. You could still have a public hearing for both rules at the same time. You could schedule your public hearing for both rules at the same time, you wouldn't jeopardize your procedural rules which are very much needed with your controversy that you can anticipate.
- D. Vinet Why do you have to have public hearings to pick up \$2.00 or \$5.00 when you know the only people that's going to be there are oyster people and they're gonna say, they don't want to ... to \$5.00. But yet, at the public hearing you'll put it \$5.00 anyway.
- D. Puckett But it's got to go through the Administrative Procedure Act in my opinion, in other words, the Commission has the authority to set that lease and the law is silent on as to how that is to be done through rulemaking. And, of course rulemaking contemplates a public hearing.
- J. Palmisano Tommorrow, we're gonna delay taking action on this for today with your permission at the present time. Can you go ahead and prepare for us another Notice of Intent that we can adopt tomorrow for the fee schedule for the leases? And we'll adopt them separately ... and we hold the same public hearing for both matters.
- D. Puckett There's one problem with that, I'm gonna go ahead and point it out to you now. There's nothing on today's agenda that addresses an increase in the fee schedule.
- J. Palmisano We don't want to address, we just want to have a Notice of Intent to go ahead and proceed with, notify the public, the Administrative Procedure Act does is notify the public that we'll be considering an item.
- D. Puckett That's part of it but the public, the open meetings law requires that the public body all the items that are going to be taken up. You got survey rules on here. You don't specifically state the increase in the lease fee. My fear is that you might find yourself in the same procedural jam that we found ourselves back in January with the redfish. If you took the time to go ahead and put it on the agenda, on the published agenda you'd be in a safer procedural

poster, now you do have a right to take up a matter not on the agenda by a two-thirds vote. You can do that today even though it's not published.

J. Jenkins I don't see anything wrong with doing that. What he's trying to do is just get started on the thing. I would suggest that we do that.

D. Hines It'll be included on the agenda tomorrow?

J. Jenkins I move that we do that.

J. Palmisano Well, first of all, let's do it correctly. We have to go ahead and, I'll ask for a motion that we suspend the rules.

D. Puckett Alright, it would be essentially a motion to add an item to the agenda, Mr. Chairman, it would take a two-thirds vote. You can put it under other business. You need to specifically address it in your motion it would be an item to consider the increase for the oyster rental. That could be done at this time and put on tomorrow's agenda if it is passed.

J. Jenkins I'll just move that we add an item to the agenda tomorrow to consider intent to hold public hearing on the fee structure for oyster leases for the state of Louisiana.

W. Pol I second it.

J. Palmisano It's been moved and seconded, do we have any discussion, all in favor, all opposed. Moved unanimously that this be placed on the agenda. I'll entertain a motion that we delay taking action til tomorrow on the oyster Notice of Intent for survey rules.

D. Puckett That could be taken up at the same time. I did have one comment. That could be taken up today or tomorrow at the Chairman's pleasure.

J. Palmisano We'll take that item up tomorrow to give everybody a chance to go ahead and look over the draft. Everyone does have a copy of the draft?

D. Puckett Mr. Chairman, I have one comment to Dr. Hines' question earlier that I might be able to answer a question that you had on that transferability of application. The F2 talking about the 180 days the estate to appoint a representative is already in the rules, that's presently in the rules. That was put in there at a time when there was a challenge, a legal challenge as to whether or not we could honor the application of a dead man, this is an actual case, we took the position that we could because we had in the past, going back to 1921, it went to court and that was challenged and we were unsuccessful. The Department's feeling purely out of fairness and practice that had been followed for years that the heirs of the applicant should not be penalized simply because the applicant died. That's why this was put in there. F3 is really unrelated, this was intended and this is proposed it's not in there, it's intended to stop what's a more and more frequent practice of transferring these applications between live applicant. And we've seen that perhaps to the point of use to the point where you've got a hard time keeping track of actually who has the application. So, if it your pleasure if it would be your pleasure to keep both of these provisions F2 as it presently reads to adopt F3 I think your

both of these provisions F2 as it presently reads to adopt F3 I think your point is well taken and we could perhaps put exception in there for F2 for what we word as the "dead man provision". That clarifies your question.

- D. Vinet There would be something in there, for instance last year I know of two cases that women stood in line, got two, 1,000 acre tracts next to Marsh Island, didn't even have a boat, had never been in the oyster business in their life, trying to sell these reefs, applications or whatever after they die. And that was their sole purpose of them being in there was to get these applications and then sell the reefs afterwards.
- D. Puckett That's something that the Survey Section has seen more and more frequently, it's apparently speculation on the application itself and that's why we propose
- D. Hines Also when we're discussing fees tomorrow I think the staff would be prepared to address the issue of when there's intervention in the lease, pipeline crossings or whatever and I think right now the lease holder gets 100 percent of the damages when actually, you know, it's our property, we supply the oysters for bedding and so forth. I'd like for us just to discuss that a minute. I don't know if there is anything we can do but I fell like possibly the Department should derive a percentage of this income.
- D. Vinet Some of these leases are dead and they're just being kept
- D. Puckett That's certainly an issue we can look at. What I might suggest is again, if it could be kept separate from the procedure for issuing the lease is our big jam up right now. But it certainly is an issue we can consider.
- J. Palmisano When we look at the price schedule
- D. Hines To be included in the fee schedule
- J. Palmisano The oyster and shrimp committee can certainly handle those items but I think it's a point well taken
- P. Bowman Mr. Chairman, just so I understand and I can get the proper numbers on paper between now and tomorrow do I take it then that you want for us to draft a Notice of Intent for \$5.00 an acre lease, maximum provided by law or
- J. Palmisano No, all we want to do is address the fee schedule and the lease I'm not saying, I don't think it's the Commission's wishes that we go up to \$5.00 tomorrow
- P. Bowman I think the Notice of Intent
- J. Palmisano Yea, it could go up to 5
- D. Hines He's gonna have to have something definite. We could address \$5.00 and we could amend it tomorrow if anybody sees fit to do otherwise, you know if there's information brought forth tomorrow that it's too high. But I mean, you have to

P. Bowman I want some direction though so we can see, cause we'll have to fill out a fiscal impact statement so along with this, with the Notice of Intent. So really what you're proposing is you're proposing to address an increase in acreage rental and you want a Notice of Intent published to address that additional fee in acreage rental. I would like to get some direction just how much you would like to increase it, go up to the maximum of \$5.00 as I appreciate the statute, I could go ahead and draft it that way and file a fiscal impact statement and go through the public hearing process and modify

J. Jenkins Why don't we just say up to the maximum allowed to the Commission by law, \$5.00, somebody said \$5.00

Seismic Report,

Transcript from Minutes of the  
Louisiana Wildlife and Fisheries Commission Meeting  
September 9, 1988

Don Hines       The next item on the agenda is Notice of Intent to increase oyster lease rental. Phil, you're going to take that too?

Phil Bowman    Yessir, Mr. Chairman, yesterday at you requested that the staff develop a Notice of Intent to increase the lease rental on oyster leases. I have distributed to you a copy of the Notice of Intent the staff has prepared for you and basically what it does is to amend Paragraph 503 of the Louisiana Administrative Code Title 76 Chapter 47 Chapter 3 which deals with the rental rate that is charged for oyster leases. We have structured the Notice of Intent so that we will specifically amended to read that a rate for the minimum of oyster leases shall be \$5.00 per acre or a fraction of an acre per year. And Mr. Chairman as I understood it that was the direction we received from you so we have that there for your action, consideration.

Don Hines       Okay, do I hear any discussion of

Jack Cappel    Yes, uh, Don, yesterday you mentioned something about also including in this a discussion of other facets of the oyster business are we going to include that or should we leave that out, such as no ...payments for damages coming to the state for pipelines things like that? Should that be included in this or is something we're going to leave out?

Don Hines       I think we're gonna just use this resolution as a vehicle to set the wheels in motion to begin discussing our increasing revenues from oyster leases. Realizing that this resolution here will probably not be the final answer, that it'll probably be revised and improved upon ask the staff to develop it along completely. In the Notice for the public hearing it will be included that portion about percentage of collection, percentage of revenues for damages and so forth, indemnity that will occur will go to the state. And then we thought it could be handled that way because at this time there's a number of questions that are unanswered about many things, just say legal fees, you know, wo, when do you take the percentage, before or after, so forth, a lot of discussion is going to take place. But I think this will give us a vehicle to set in motion and discussion on increasing our revenues from oyster leases. Also, I guess it gives us also the opportunity to tell them what services we might improve on in return for this increase in revenues, also.

VVS I like to think of something just to make aware of, the Health Department has approached us about reimbursing them for ... of the oyster growing areas. Ron, what was the amount that they asked for?

Ron Dugas       I think it was around \$40,000, they originally asked for \$280 and they dropped out only half of...they're now asking for something around \$40,000.

VVS Well, they're talking about cutting out the service which would mean that we will not be able to harvest oysters, but that's a good point.

Ron Dugas That's correct, part of the layoff in the Health Department the 2,000 people they're advertising, a vast portion of that are the people who'll be doing the sampling for the certification of the waterbottoms so...termination of the program.

J. Jenkins I guess that Department has about 22,000 people

Ron Dugas I don't know exactly what the head count would be, but it 's quite massive, still that is one area that is targeted in their reduction program since it does not quite fit in to the overall hospital ..., but, so it is a concern to us.

Don Hines Well, I think this brings out the fact that we need to completely reevaluate the entire oyster industry and the revenues that we hope to obtain from it, how we plan to use it, what services we're gonna to offer for those revenues etc., and I think that by filing this notice of intent gives us time to fully develop a program that we can live with, the industry can live with, so forth, I realize that it's not going to be easy to sell it to those people, but I think if we have a sound program, we have something we can be comfortable with and take the heat. Anyone else...

Jack Cappel Virginia, has there been any thought at all to private laboratories doing the sampling?

VVS I'm not aware of

Jack Cappel not commercial, private laboratories testing for toxic to do this type

VVS Why don't you come up here, Ron.

Ron Dugas There's sort of a problem with that, basically, the overall certification of the water is adapted after a national, a national saying is that they have to be met, the lab itself has to certified from the national level. There are provisions within the law to allow the local labs to do this. At the present time there is only one state lab certified, the State Health Department's lab, the one in New Orleans and the one in Lafayette. In addition the Plaquemines Parish, the local governing body also has a lab. They've got it in under a provision of the law, state law that has been certified so you have two certified labs. The individual labs, private labs, could do it if they were certified in the program so they would have to go through the certification process. That is definitely one of the options indeed if there is a termination in the Health and Hospitals to look at all the alternate laboratories.

J. Jenkins Could I ask you a question? What legal obligation do we have as far as the Health permit end of the business is concerned, are we obligated to check the water, who is obligated?

R. Dugas Nosir, they are, they're basically under the present Memorandum of Understanding between the two Departments which is spelled out by the federal permit. Our responsibility is one of enforcement. That's basically what our responsibility is. They do the sampling, they determine what areas are basically closed, the only other involvement we have is by law there is

a requirement...

J. Jenkins How can they make a demand on us for a job that they are obligated to do?

R. Dugas Basically, I don't think they're making a demand on this Department, they were making a demand on, trying to make a demand on the industry and saw us as a vehicle. Of course, we're basically concerned about this, the industry, the fisheries, so I don't think it was a direct demand on Wildlife as much as it was an attempt to a backdoor method support from the industry.

D. Hines If I understand it correctly the bottom line is they say they don't have the manpower or the revenues that to do these tests and if we don't pay them, someone don't pay the \$400,000 or whatever they ask that way they're not gonna give the approval to harvest the oysters so everything's basically closed, you know.

R. Dugas Once they lose verification of that program over at the Health Department, we would not be able to ship in state oysters. We can't assume everything is like it is in Louisiana, we have alternate source.

J. Jenkins Well, I can't imagine an agency doing that, shutting down an industry like that, but I hear what you're saying.

R. Dugas I don't want anybody to get the impression, we not looking at shutting down anything, we're trying to work with everybody just like normal.

VVS They haven't given us a mandate, a deadline or anything like that.

R. Dugas We're just looking at all possible sources.

D. Hines Let me just ask another question while we're discussing, if push comes to shove, and they say that \$400,000 is the bottom line, it's what is gonna take for them to approve, test and approve these areas. How much do you think it would cost us to do the same work?

R. Dugas Well, it'll probably cost us just as much basically you have a problem here, you have to realize that what we're talking about is health certification. This is a fisheries organization and the idea or the incentive or the reactions of the general public ... so alternately, the responsibility for certification of fisheries products should lie in Health and I think that's where it should lie, but of course, you have to look at all options.

D. Hines Anyone have any further ...

J. Jenkins I'd like to make one other comment. I agree that we should look at raising these fees for a number of reasons among them would be what other things would be to cover our costs and paid for our services, of course. I think there's another whole aspect of this thing that we are obligated to look at and that is that this is a state resource, belongs to the taxpayers. I think we're obligated to get the market value of those leases in some fashion and I don't think anybody can sit up here and say that \$2.00 an acre

is a fair price. And I'm not sure that some where along the line some fashion consider public bids on these leases. And I think if you got in details of that it could be streamlined and be a lot more workable than it is today without, I mean today you're leasing 10 acres and 5 acres and curved pieces, hooks and horseshoes and all sorts of stuff. Seems to me you could go out there in blocks like you do mineral leases, take bids on block a, block be, block c and the oystercatcher or whoever's interested in this property, just like to oil companies, they have to make the investigations to make the mineral leases, whoever's interested could make the investigation to determine the work those leases and make the appropriate bid on it. That's just another thing that we oughta give some consideration to.

- D. Hines I think that' gonna take some sort of legislative action to do. Right now working under the laws of Louisiana I think about our only alternative now to raise the revenue up to \$5.00 and any other thing, separate taxes, whatever, maybe as I said at the beginning the \$5.00 per acre is not a fixed figure it gives us a vehicle to look at this. There are other alternatives that may be more equitable alternatives that can be explored down the road as we develop this plan. Do I hear a motion to accept the filing of the Notice of Intent to increase the rental rate on oyster?  
Moved by Mr. McCall, seconded by Mr. Jenkins. Any further discussion from the Commission? Anyone in the audience have anything further they'd like to bring forth at this time? All in favor say Aye! Any opposed? Passed

AGENDA  
LOUISIANA WILDLIFE AND FISHERIES COMMISSION  
BATON ROUGE, LOUISIANA  
September 8-9, 1988

11. ✓ Roll Call
12. ✓ Approval of Minutes of August 4-5, 1988  
*Shikar - Safari*
13. Netting Regulations-Black and Clear Lakes, Natchitoches and Red River Parishes, La. - *Sennie - Hines 9-8-88 Approved*
14. <sup>14</sup> Recommend Dates for 1988-89 Fur Harvest Season - *Johnnie - Grey slides Jenkins - Linet*
15. Ratify Rules and Regulations for Wildlife Management Areas and Refuges in the Fur and Refuge Division - *Johnnie McCall Cappel*
- ~~16. Oyster Survey Report - Phil~~
17. Notice of Intent - Survey Rules - *Phil Jenkins Cappel*
18. ~~Seismic Report - Jenkins -~~ *shrimp & oyster committee - public hearing - 18 days - increase fee structure Jenkins Pol*
19. Artificial Reef Program Update - *Rick Kasperczyk No action*
20. Discuss Wallop-Breaux Funds - *Phil Bonna - Arthur Mark Stilyer Jim Hone*
21. Commercial Speckled Trout Fishing in Calcasieu Lake and Calcasieu River *Norman McCall - zero - info*
22. Formal Award of Shell Dredging Leases - *deavo*
23. Discussion of Cattle Grazing, Saline WMA - *Edward Chevalier No action*
24. Ratification of Special Shooting Preserve License - *Mike Slind Hine Pol*
25. Ratification of Pen Specifications for Game Breeders *Butch Pol Jenkins*
- ✓ 26. Discussion of Duck Stamp Program - *Butch, Dave Morrison explained legislation No formal action by Comm.*
27. Recognition of National Hunting and Fishing Day, Sept. 24, 1988 - *Jenkins - Or Cappel*
28. Law Enforcement Report for the month of August - *Winton*
- ✓ 29. Shikar-Safari International Wildlife Officer of the Year Award by Richard Cochran - *Jimmy McCoy*
30. Select Member for Deer Management Task Force - *Palmisano appointed Jenkins*

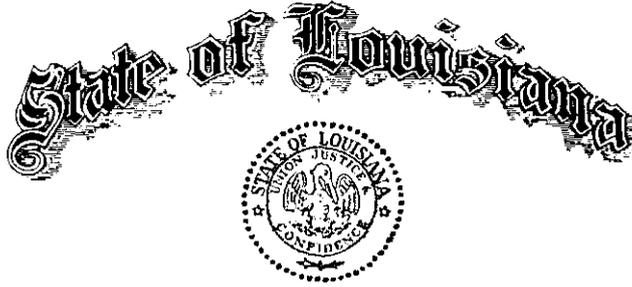
*Set October Meeting Date - Oct 6 + 7  
13 + 14*

*Oyster Lease Rental*

## RULE

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

The Fur and Refuge Division manages approximately 500,000 acres of wetlands in the coastal zone that includes both refuges and wildlife management areas. In compliance with the Deeds of Donation only certain activities are permitted on the refuges. To promote and encourage wildlife habitat utilization by both wildlife species and user groups, rules and regulations are required governing the uses. Adjustments made to the resolutions approved by the Louisiana Wildlife and Fisheries Commission appear in the record throughout many years. In order to simplify and clarify the existing rules and regulations for publication in the Administrative Code, Title 76, the Louisiana Wildlife and Fisheries Commission is readopting each set dealing with all refuges and wildlife management areas.



Virginia Van Sickle  
SECRETARY

DEPARTMENT OF WILDLIFE AND FISHERIES  
POST OFFICE BOX 15570  
BATON ROUGE, LA. 70895  
September 1, 1988

Buddy Roemer  
GOVERNOR

MEMORANDUM

TO: Commission Members

FROM: Virginia Van Sickle, Secretary *VVS*

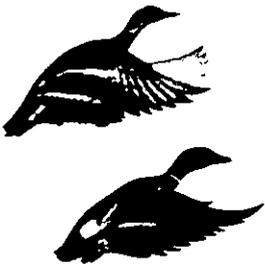
SUBJECT: Waterfowl Conservation Stamp and Print Program

I have enclosed a draft copy of the plans developed by my staff for implementing the Louisiana Waterfowl Conservation Stamp and Print Program mandated by Act 632 of the 1988 Legislative Session. We have recently met with a group of Louisiana artists and they have requested that we try to amend Act 632 to place the responsibility for the reproduction, distribution and marketing of the prints with the Department instead of the artist. I have agreed to support this amendment since it will enable the Department to select the publisher to accomplish these activities. This would be a more acceptable arrangement and we propose to submit such an amendment during the upcoming Special Session.

We plan to discuss this program with you at the Commission meeting in Baton Rouge next week.

VVS:LDS:jc

Enclosure



# State of Louisiana



Virginia Van Sickle  
SECRETARY  
(504) 925-3617

DEPARTMENT OF WILDLIFE AND FISHERIES  
POST OFFICE BOX 15570  
BATON ROUGE, LA. 70895

Buddy Roemer  
GOVERNOR

CONCUR DATE

<i>[Signature]</i>	9/1/88
VVS	9/1/88

September 1, 1988

This correspondence was sent to all Commission Members and Mr. Bob Misso.

The attached documents dealing with recommended 1988-89 Trapping Season are submitted for your review prior to consideration at the September 8-9, 1988 Commission meeting. A short slide presentation and discussion by Mr. Greg Linscombe will accompany the staff recommendations.

If you have any questions, please call Johnnie Tarver at (504)765-2344.

Sincerely yours,

Virginia Van Sickle  
Secretary

VVS:JWT/plh  
cc: Johnnie Tarver  
James Manning  
Greg Linscombe

## LOUISIANA WATERFOWL CONSERVATION STAMP

### 1989 Art Competition Rules and Procedures Louisiana Department of Wildlife and Fisheries

#### Background

In 1988, the Louisiana State Legislature authorized the Louisiana Waterfowl Conservation Stamp program to generate revenues for conservation and enhancement of waterfowl, protection and acquisition of valuable wetland habitats, and other worthy projects that benefit Louisiana's ducks and geese. Income is derived from the sale of state duck stamps to hunters aged 16 and over, who are required to have a stamp for waterfowl hunting in Louisiana, as well as from the sale of limited edition art reproductions of the design. Stamps and prints are sold to collectors nationwide via normal retail sales outlets. The state will receive royalties from the sale of prints and revenue from the sale of duck stamps.

#### Purpose

The primary purpose of the Louisiana waterfowl conservation stamp program is to produce revenue for needed waterfowl conservation and enhancement projects.

#### Objectives

1. Obtain the highest quality work of art that will most accurately and eminently portray waterfowl species and will have broad appeal to art collectors.
2. Provide a nationwide opportunity for waterfowl hunters, viewers, and art collectors to contribute financial support for waterfowl conservation and enhancement programs in Louisiana.

#### General Guidelines

By tradition, most waterfowl conservation stamp art is highly realistic in style, exhibiting extensive detail in anatomy, plumage, and the natural setting. Although artists are free to submit any composition that they desire, highly stylized or unusual designs may be viewed as too incongruous by series collectors or may limit the breadth of appeal among print buyers.

A key aspect of duck stamp art is the strength of the composition and dominance of the featured bird(s). Because the final image will be 6 1/2" x 9" on the print and only 1 3/8" x 2" on the stamp, lighting, spatial arrangement and colors should provide a clean, attractive composition at both scales.

#### Specific Requirements

1. The subject of the 1989 Louisiana Waterfowl Conservation Stamp and Print will be the

2. The design must be a full-color, realistic rendering of . The setting must be identifiable as Louisiana and appropriate to the natural habitat of the species.
3. The image must be horizontal, 13" x 18" and bear no signature or other marks that would identify the artist.
4. The design must be original, never have been published, and not have been entered in competition for any federal or state waterfowl stamp program.
5. There is no restriction on media or substrate, but the Department will not be responsible for damage or deterioration of pastels or other sensitive, unstable materials.
6. Each artist may enter only one design in the 1989 stamp competition. A winning artist may not compete for two successive years following his selection year.
7. Works must be matted in white to outside dimensions of 18 1/2" x 23" and should be loosely covered with acetate or other protective overleaf, but must not be framed or covered with glass.
8. A card on the back of each entry must list the artist's name, mailing address and phone number. A brief summary of the artist's background and credit should be enclosed.
9. All entries must be shipped in sturdy reusable containers bearing a legible return address, at the expense of the sender. Return shipping will be to the point of origin, unless requested otherwise, at the Department's expense. The Department will be held harmless for loss or damage during shipment.
10. All entries must be available for inclusion in public exhibits for one year from the close of competition. Entries not judged to be in the top selections may be returned sooner. The Department reserves the right to photograph all entries for purposes of documentation, promotion, and education. The winning entry will be retained by the Department.

#### Judging Criteria and Selection Procedures

The winning design will be selected by a panel of five judges who have expertise in waterfowl biology, artistic methods and expression. Judges will be selected by the Louisiana Department of Wildlife and Fisheries and the Louisiana Art Council. Judging will be done in three stages as follows: (1) the panel will screen and evaluate all entries and will select the top 30 entries, (2) the panel will reevaluate these 30 selected entries in detail to select three to five designs which will become finalists and (3) the finalists will be required to submit a detailed production and marketing plan (see attached guidelines) to be evaluated along with the design to determine the winning entry. The art production and marketing plans will be evaluated by the Department using the assistance of independent production and marketing experts. Preliminary judging will be completed on or about December 1, 1988.

If the Louisiana Legislature amends Act 632, which created the Louisiana Waterfowl Conservation Stamp and Print Program, to place the responsibility for the reproduction, distribution and marketing of the print with the Department instead of the artist, the panel of five judges will select the winning art design. The artist of the winning design will then be required to enter into a contract with the publisher selected by the Department.

All art works will be scored on the following criteria:

1. Accuracy of the form, size, proportion, posture, and colors of the bird(s).
2. Level and accuracy of detail in plumage, eyes, feet, bill, etc.
3. Appropriateness, accuracy, and detail in depiction of the bird's habitat.
4. Attractiveness and creativity of the composition, regarding spatial balance, lighting, and harmony of subject and background.
5. Visual appeal and suitability for reproduction at both the print and stamp scales.

#### Eligibility

This art competition is open to all artists who are 18 years of age or older and domiciled in Louisiana except employees of the Louisiana Department of Wildlife and Fisheries and members of their immediate families. An artist is considered to be domiciled in Louisiana if he has resided within the state for a period of 12 months immediately preceding submission of his art work, provided that such person has shown his intent to remain in this state as demonstrated by compliance with all of the following, as applicable:

1. If registered to vote, he is registered to vote in Louisiana.
2. If licensed to drive a motor vehicle, he is in possession of a Louisiana driver's license.
3. If owning a motor vehicle located within Louisiana, he is in possession of a Louisiana registration for that vehicle.
4. If earning an income, he has filed a Louisiana state income tax return and has complied with state income tax laws and regulations.

#### Entry Procedures and Deadlines

1. Entries must be prepared and shipped according to the specific requirements listed above. All entries must be RECEIVED by 4:30 p.m., on November 14, 1988 at the Louisiana Department of Wildlife and Fisheries, 2000 Quail Drive, Baton Rouge, LA 70808, ATTN: Louisiana Waterfowl Conservation Stamp Program.
2. Entries will not be considered complete without a signed and notarized

Artist Agreement (attached) and a \$50.00 Entrance Fee received by the deadline.

3. Entries may be hand-delivered, sent via U. S. Mail, or by express parcel service. Senders are advised to obtain adequate shipping insurance on their entries.

Additional Information

For more information on the Louisiana Waterfowl Conservation Stamp program and the art competition, contact the following office:

Louisiana Department of Wildlife and Fisheries  
P. O. Box 98000  
Baton Rouge, LA 70898-9000  
ATTN: Dave Morrison or Robert Helm  
(504) 765-2347 or (504) 765-2358

**1989 LOUISIANA WATERFOWL CONSERVATION STAMP  
ARTIST AGREEMENT**

I hereby agree to the following terms and conditions if my original design is selected for the 1989 Louisiana Waterfowl Conservation Stamp and Art Print.

1. If my original art work is selected as one of the top designs in the final judging, I agree to submit a complete and detailed production and marketing plan for the prints and stamps to the Louisiana Department of Wildlife and Fisheries within 45 days after notification. The Department's guidelines for the production and marketing plan are attached. The top finalists will then be evaluated again, and an overall winning entry selected.
2. Upon selection of my original design and associated production and marketing plan as the winning entry, the original work of art and any and all reproduction rights to the design become the property of the Louisiana Department of Wildlife and Fisheries. The Department will use the design to produce the 1989 Louisiana Waterfowl Conservation Stamp, limited edition art prints, commemorative medallions, and any reproductions it deems necessary and appropriate for purposes of documentation, promotion, and education.
3. If the Louisiana Legislature amends Act 632, which created the Louisiana Waterfowl Conservation Stamp and Print Program, to place the responsibility for the reproduction, distribution and marketing of the print with the Department instead of the artist, I agree to enter into a contract with the publisher selected by the Department within 15 days after notification.
4. I hereby affirm that my original design of my own creation, has not been copied in whole or part from any published works of art, has not been previously entered in any federal or state waterfowl conservation stamp competition, and has not been published. I understand that all compensation may be forfeited if these conditions are not met.
5. I affirm that I am an artist legally domiciled in the State of Louisiana.
6. I have enclosed a non-refundable entrance fee of \$50.00 paid by cashier's check, certified check or money order made payable to: Louisiana Department of Wildlife and Fisheries.

I have read and agree to the terms and conditions of this Artist Agreement.

Artist's Signature \_\_\_\_\_ Date \_\_\_\_\_

Mailing Address \_\_\_\_\_ Telephone \_\_\_\_\_

\_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, nineteen hundred and

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

## **GUIDELINES FOR PRODUCTION AND MARKETING PLAN**

### **1989 Louisiana Waterfowl Conservation Stamp and Art Print Program**

Prospective artists are required to carefully review the following minimum requirements for design, production, marketing, and project administration for the 1989 Louisiana Waterfowl Conservation Stamp and Art Print Program.

#### **A. Artist Responsibilities**

##### **1. Design Arrangements**

Each artist responding must agree to submit a proposal to produce and market his design if it is selected by the Department for the 1989 stamp and print. Within 45 days after being selected as one of the finalists, the artist shall submit to the Department a proposed contract to accomplish this work. Upon selection of the winning design, the original art work and all reproduction rights will become the property of the Louisiana Department of Wildlife and Fisheries. The artist/agent shall supply the Department two print size photos or stamp prints suitable for copyright application within 90 days after selection of the winning design.

##### **2. Contract**

The winning artist shall enter into a contract with the Department for the production and distribution of the stamps, prints and supplemental products, a copy of which is attached hereto. This contract shall incorporate in its entirety the marketing, printing and production plan submitted by the artist and agreed to by the Department.

##### **3. Production of Stamps**

A copy of the keyline and a kromalin proof of the stamp design will be delivered to the Department for review.

On or before June 1, 1989, the artist or his agent will be required to deliver to the Department without charge a minimum of 339,980 stamps, produced, printed, and packaged according to the following specifications:

- a. Stock should be 70# White English finish (matte) or an equivalent quality stock specified by the Department. Printing ink should be 4-color process on the front side and PMS 421 (gray) on the back side. Printing should be high quality--133 line press or better.
- b. Stamp size will be 1 3/8" x 2" as set forth in Exhibit A. Perforations will be pinhole with fourteen (14) pinholes per inch, on all four sides of the stamps.

- c. Printing will be two sides, head to head. Four (4) full size final press sheets will be provided to the Department as soon as available. Press sheets will not be gummed, numbered, or perforated.
- d. A minimum of 79,980 stamps will be produced in 2666 sheets of 30 stamps each. Each sheet is to be serially numbered from 0001 to 2666 in each corner of the selvage area, to form plate blocks (Exhibit A). Each stamp is to be consecutively numbered from 000001 to 79980 with numbers printed on the back in black ink. This stamp shall be printed with a price of \$5.00 (Exhibit B).
- e. A minimum of 60,000 stamps will be produced in 2000 sheets of 30 stamps each. Each sheet is to be serially numbered from 2667 to 4666 in each corner of the selvage area, to form plate blocks (Exhibit A.). Each stamp is to be consecutively numbered from 79981 to 139980 with numbers printed on the back in black ink. This stamp shall be printed with a price of \$7.50 (Exhibit C).
- f. A minimum of 200,000 stamps will be produced in manifold sets with address cards for license vendors. Each manifold set will contain a sheet of 5 stamps with perforated address stub. Each book shall contain 2 manifold sets or 10 stamps per book (Exhibit E). The size and quality of these stamps must be the same as those produced in sheets for collectors (item d. above) (Exhibit B), and they must be numbered consecutively with stamps produced in sheets. Each manifold set will include a cover sheet (Exhibit D).
- g. Costs of producing stamp manifold sets, over and above the costs of printing the stamps, shall be borne by the state, through a deduction from the contractor's final royalty payment to the state. The proposal shall include the name of the subcontract printer and the cost to the Department for these manifold sets.
- h. Any overage or misprinted stamps must be destroyed by shredding. An affidavit by the printer as to disposition of stamps shall be provided to the Department.
- i. Sheets of 30 stamps will be packaged or boxed in 100s, slip-sheeted to prevent sticking, with the lowest sheet number at the top of the package. All packages will be marked to show the sheet numbers and stamp numbers. All shipping and insurance charges are the responsibility of the artist or his agent. Shipping must be by a qualified shipper to ensure against loss or delays in delivery.

- j. The printing process may be monitored by a representative of the Department. Delivery of the printing plates is to be made by the printer directly to the Department upon completion of press run and acceptance of stamps by the Department.

4. Sale of Stamps

Except as provided, it is the intention of the Louisiana Department of Wildlife and Fisheries to have exclusive rights for the sale of all stamps, and no more stamps than are specified in the negotiated contract shall be printed except upon written order from the Department.

The Louisiana Department of Wildlife and Fisheries will reserve a series of resident and non-resident stamps specifically for the purpose of accompanying the limited edition prints. The artist or his agent must state in the proposal the quantity of stamps and the serial numbers desired.

A resident and non-resident stamp will be sold by the artist or his agent with all art prints and also sold separately to collectors. Stamps will be purchased from the Department by the artist or his agent for the sum of \$5.00 for a resident stamp and \$7.50 for a non-resident stamp payable in accordance with the terms of the negotiated contract.

5. Production of Prints

The artist or his agent will have exclusive rights to reproduce the design submitted, as allowed by the contract, and to market prints only in the following editions and priced as indicated:

- a. Regular Edition -- numbered, signed by artist;

Maximum Retail Price: \$135.00  
Minimum Royalty to Department per print sold: \$35.00

- b. Medallion Edition -- numbered, signed by artist, with gold-plated medallion;

Maximum Retail Price: \$300.00  
Minimum Royalty to Department per print sold: \$65.00

- c. Executive Edition -- numbered, signed by artist, artist remarque, with gold-plated medallion; artist shall include schedule for delivery of remarqued edition

Maximum Retail Price: \$450.00  
Minimum Royalty to Department per print sold: \$75.00

- d. Conservation Edition -- numbered separately, signed by artist, labeled as "Conservation Edition". This edition will be provided at no cost to the Department for promotional purposes.
- e. Artist Proof -- \$550.00 retail; Department royalty \$85.00  
Edition size to be less than 500.

The edition sizes (Regular, Medallion, and Executive Editions) may be pre-set or time limited. On or about November 1, 1989, after the deadline for receipt of distributor orders, all unsold prints shall be destroyed and a letter shall be sent to the Department certifying the total number of prints sold in each print edition. Upon request the artist or his agent will provide distributors and dealers a copy of that letter. If the artist or his agent elects to propose a pre-set edition, edition size shall be stated in the proposal. The Department will retain all other reproduction rights. Any other proposed editions or use of the image on products to be sold to the public must be specified in the proposal.

The overall size of the print must be at least 12 inches by 14 inches with an image size of at least 6 1/2 inches by 9 inches.

The artist or his agent will purchase a resident and non-resident stamp from the Department to accompany each print. The lowest numbered prints will be provided to Louisiana dealers. The artist or his agent will provide the Department with a registry of purchasers of the 1989 stamps and prints.

6. Advertising and Marketing

The success of the stamp and print program depends on a broad, effective network of distributors and dealers to maintain and increase sales. The artist or his agent should provide in his plan the following:

Cooperative advertising and dealer incentives,

Distributor-Dealer Marketing Plan,

Pricing and volume discounts, and

Marketing aids for dealers (e.g., counter display cards, ads.).

Although the Department has no desire to exercise control over distributors or urge divulgence of their competitive strategies, the Department is interested in the effort the artist or his agent propose to make to promote the program as distributors.

a. Advertising

The artist or his agent will be responsible for conducting an aggressive nation-wide advertising and marketing campaign for the prints and stamps. An advertising schedule shall be included as part of the marketing proposal. All costs associated with the campaign will be the responsibility of the artist or his agent. The artist or his agent will establish a common release date for the first release of advertising material by all distributors. The campaign should include:

i. Direct Nationwide Magazine Advertising

The artist or his agent will advertise prints and stamps nationally and regionally in magazines to include, but not limited to: Ducks Unlimited, Wildfowl, Southern Outdoors, Fin and Feather (Full Circulation), Grays Sporting Journal, Collectors Mart, Stamp Collector, and Stamp Work

An advertising schedule, including magazine issue, size of ads, and costs must be included with the proposal. The schedule will be a part of the negotiated contract. The ads will be professionally designed and proof of advertising must be submitted as part of the contractor's monthly reports to the Department.

ii. Direct Local Newspaper Advertising

The artist or his agent will advertise locally in Louisiana newspapers. An advertising schedule, including anticipated size of ads, name of newspaper and frequency of advertising should be included with the proposal. The schedule will be a part of the negotiated contract. Publications will include, but not be limited to:

Times Picayune, Morning-Advocate, State Times, Shreveport Journal, Alexandria Town Talk, Ruston Daily Leader, Lake Charles Press, Lafayette Daily Advertiser, Monroe News Star World.

These advertisements will identify dealers and ads will be aimed at educating collectors and directing them to their local source of prints.

b. Marketing Plan

The artist or his agent will develop and describe a detailed marketing plan in the proposal that includes at least the following elements:

- i. List of Proposed Distributors -- the proposal should list all national and Louisiana distributors expected to market prints and stamps, as well as describe the criteria for qualification as a distributor.
- ii. The Artist-Distributor Agreement -- provisions of this agreement should ensure that the distributors:
  - (a) make timely payments
  - (b) advertise and provide verification
  - (c) provide dealer incentives
  - (d) make all payments due the Department payable directly to the artist/agent. Any non-payment by distributors shall not release the artist/agent from the liability of royalty payments.
- iii. Price Distribution for Products -- the proposal should include a schedule of retail, wholesale, and distributor prices for each edition of prints, posters, or other products to be sold to the public.
- iv. Distributor Discounts and Incentives -- the proposal should describe any volume discounts and advertising credits to distributors that would escalate according to the number of prints ordered. In addition, the proposal should describe a cooperative program with participating Louisiana dealers that would provide them with national advertising at no cost. Such a program would encourage greater dealer participation in marketing the Louisiana waterfowl conservation stamp and print.
- v. Mailing and Press Releases - the artist or his agent will produce press releases for national media and conduct periodic mailings to distributors to provide promotional support, transmit news on the status of sales, and inform dealers of the purpose of the program, the nature of the design subject, and artist's background.
- vi. Artist Appearances and Trade Shows -- the proposal should list a schedule of artist appearances, in Louisiana and elsewhere, as well as any trade shows where the design and program will be promoted.
- vii. Other Marketing Methods -- the proposal should describe any innovative or expanded marketing approaches (e.g. telemarketing, catalog sales) that will be used to promote sales and the program.

c. Marketing Aids

The artist or his agent will produce marketing aids, available to distributors at cost and, as specified, to the Department at no charge, including:

- i. Press proofs -- full-size color prints (stamped "Sample Not for Sale") with facsimile of stamp; 30 for the Department.
- ii. Full-color mailers -- to be 8 1/2" x 11" in size with information about the print, Department program, and artist; minimum of 125,000 total, 500 for the Department. Department approval required.
- iii. Black and white glossy photos -- for use in advertising campaigns and press releases.
- iv. Posters
  - (1) 1500 posters, 18" x 24", specifically designed for hunting license vendors, to be distributed by the Department. Department approval required.
  - (2) Quality art posters of the same size designed to promote the print and stamp program; 100 to the Department. Posters may be given to distributors and dealers free of charge for promotional purposes. The State will receive a royalty on each poster sold after the first 2,000.
- v. Artist information fliers.

7. Administration

The artist or his agent is required to submit monthly progress reports to the Department, including a summary of marketing activity and outlook for sales, reports of any problems encountered with the program, subcontractors, or distributors, and documentation such as ad tear sheets, fliers, and inventory records.

The artist or his agent must be able to cover all expenses up front for advertising, printing, and other financial obligations; to meet the proposed time table for the negotiated contract. Any anticipated support from the Department must be detailed in the proposal and agreed to in negotiations.

The Department expects to receive a royalty on each print sold on the sale of any art posters and supplemental products.

The artist or his agent will be required to provide the Department with an accounting of all production and disposition of products.

If full payment is not made, the artist or his agent shall be required to remit the payment to the Department together with penalty at a rate of EIGHTEEN PERCENT (18%) PER ANNUM from the date due through the date of the final payment.

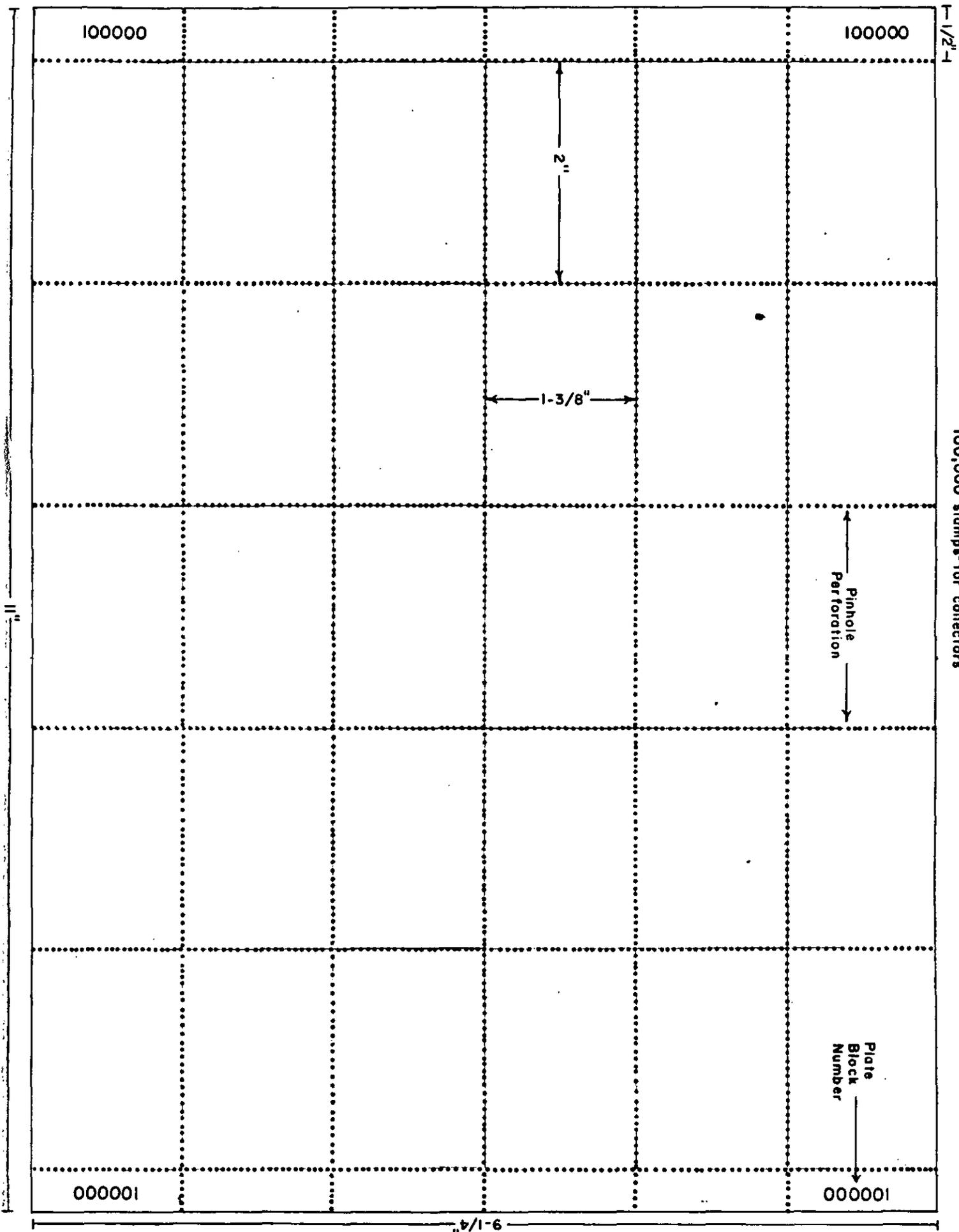
All payments will be remitted to the Department no later than April 1, 1990. A proposed schedule of payments must be included in the proposal.

B. Project Schedule

The following is a proposed time schedule for this contract including due dates of deliverables.

	DATE
Announcement of art contest.....	09/14/88
Art work submitted by.....	11/14/88
Selection of finalists.....	12/01/88
Winner selected and contract awarded.....	01/15/89
Delivery of press proofs.....	04/01/89
Delivery of keyline and kromalin proof of stamp design to Department.....	04/01/89
Beginning of advertising campaign.....	04/01/89
Delivery of final stamp press sheets.....	05/01/89
Printing of art prints.....	05/01/89
Delivery of all stamps and printing plates.....	06/01/89
Delivery of Conservation Edition prints.....	08/15/89
Distribution of all Executive Edition prints.....	*
End of sale of art prints.....	09/30/89
Begin distribution of all Regular and Medallion prints.....	11/15/89
Return of original artwork and delivery of printing plates.....	02/01/90
Submission of audit and final report.....	04/01/90
Final payments to Department.....	04/01/90
Submission of progress reports.....	monthly

\*Negotiable but no later than January 30, 1990



100000

100000

2"

1-3/8"

Pinhole Perforation

Plate Block Number

00000

00000

9-1/4"

100,000 stamps for collectors

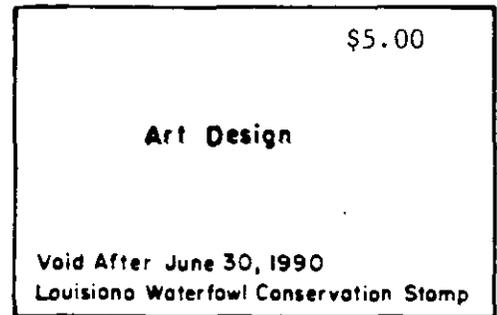
11"

1-1/2"

EXHIBIT B.

1. 1989 Louisiana Waterfowl Conservation Stamp
2. \$5.00
3. Number of Stamp (Serial)
4. Void after June 30, 1990

SAMPLE FRONT



SAMPLE BACK

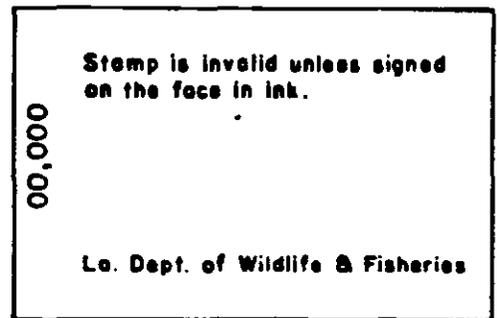
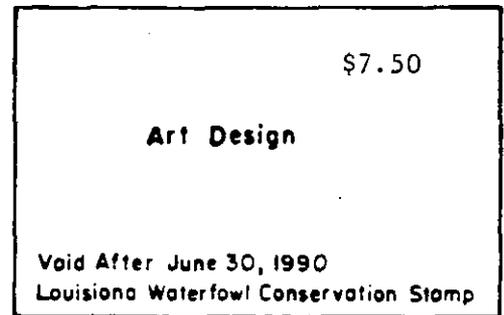


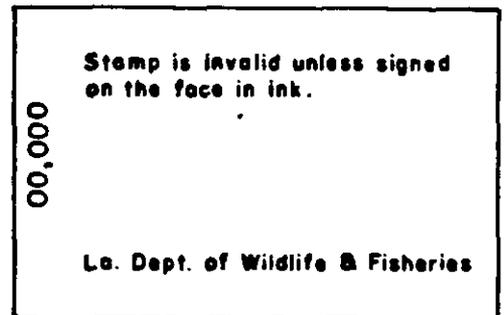
EXHIBIT C.

1. 1989 Louisiana Waterfowl Conservation Stamp
2. \$7.50
3. Number of Stamp (Serial)
4. Void after June 30, 1990

SAMPLE FRONT



SAMPLE BACK



1989

LOUISIANA WATERFOWL STAMPS

FEE \$5.00

BOOK NO. 1

CONTAINS STAMPS

No. 99,991 through No. 100,000



PROPERTY OF THE LOUISIANA DEPARTMENT OF WILDLIFE AND FISHERIES

<p>No. 139.981</p>	<p>No. 139.982</p>	<p>No. 139.983</p> <p>STAPLE</p>	<p>No. 139.984</p>	<p>No. 139.985</p> <p>Name _____</p> <p>Address _____</p> <p>City _____ State _____ Zip _____</p> <p>To Be Sold To Louisiana Residents Only.</p>
<p>PERFORATION</p>		<p>Art Design</p> <p>Void After June 30, 1990 \$5.00 Louisiana Waterfowl Conservation Stamp</p>		

6-7/8"

5"

2"

1-3/8"

2,000 Stamps for hunters

## PROPOSAL CONTENT AND FORMAT

Proposals should be complete without being unnecessarily costly or lengthy. Failure to provide necessary information could result in rejection of the proposal; supplemental information will not necessarily be requested. The format and content should closely reflect the following outline:

A. A letter of transmittal containing the complete name and address of the artists/agent; name, mailing address, and telephone number of the contact for the proposal; a statement of corporate commitment to the project; names of subcontractors; and a statement confirming that the proposal will remain valid for at least 90 days.

B. A title page showing:

1989 Louisiana Waterfowl Conservation Stamp  
and Art Print Program  
(Artist/Agent Name)  
(Date)

C. Table of Contents

D. Summary

Proposer's understanding of the Waterfowl Conservation Stamp Program and a statement explaining why his proposal should be selected.

E. Methodology

A detailed description of the proposer's approach to accomplishing the tasks described in the Guidelines. At a minimum, the description should include:

1. Stamp production information, including processes, materials and specifications of the stamp, and proposed delivery dates of the camera-ready design, kromalin proofs and completed stamps.
2. Print production information, including processes, materials and specifications of the print, packaging and handling methods, and proposed delivery dates of all editions.
3. Description, specifications and production information on any supplemental products to be sold, such as pins, posters, Christmas cards, etc.
4. Advertising information, including the proposed outlets and time schedule for advertising, examples of advertisements and promotional materials to be used, and marketing programs to be developed specifically for this contract.

5. Marketing Plan, including list of distributors, distributor agreement, pricing structure, volume and advertising discounts, mailings and press releases, artist appearances and trade shows, and special marketing efforts in Louisiana.
6. Marketing aids available to distributors, including exhibits of fliers, counter display cards, press proofs, posters and ads.
7. Proposed project schedule, as in Time Schedule in Guidelines and dates for deliverables to the Department.

F. Personnel and Organization

1. Organizational chart of all persons, joint contractors, and subcontractors involved in the project, showing lines of authority and categories of responsibilities.
2. Resumes of the contractor's key personnel, reflecting their experience in similar projects, duties in regard to this project, and commitments to other projects during the performance period of this project.
3. Summaries of subcontractor's capabilities, experience in similar projects, and their expected commitment of time and facilities to this project.
4. Summary of the contractor's corporate experience and performance record, including samples of previous work, participation and role in other stamp/print programs (e.g. publisher, distribution, dealer), references, and other materials relevant to evaluating the contractor's ability to perform.
5. The Department reserves the right to contact and interview persons or firms involved in production and marketing of the stamps and prints.
6. A current corporate financial report, statement on proposed financing for this program, if applicable, and proposed source and methods of accounting and independent audit.

G. Budget

1. Summary of all anticipated costs and a complete description of expenses considered as administration, overhead and indirect costs. Any distributor discounts or incentives should be clearly identified. If the publisher will also act as a distributor, a separate accounting of anticipated distributor costs must be submitted.
2. Summary of all income, including gross income from projected sales, cost recovery from distributors on promotional aids, and any other income or subsidies.

3. Projected revenues to the artist, the department and others, describing how revenues are calculated, forms of payment and critical assumptions.
4. Schedule of payments and circumstances affecting the schedule.

STATE OF LOUISIANA  
PARISH OF EAST BATON ROUGE

Contract for Professional Services

This Contract Is Between:

The State of Louisiana, Department of Wildlife and Fisheries (referred hereafter as the Department) represented by Virginia Van Sickle, Secretary of the Louisiana Department of Wildlife and Fisheries

AND

\_\_\_\_\_, (referred hereafter as Artist), the Artist submitting the winning design for the 1989 Waterfowl Conservation Stamp and Print Program.

Be it known that on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the Department and Artist do hereby enter into contract under the following terms and conditions.

1.

Artist hereby agrees to furnish the services set forth in the proposal attached hereto.

2.

The failure of either party to enforce at any time any of the provisions included in the attached proposal shall not be construed to be a waiver of such provision or have any effect upon the right of either party thereafter to enforce such provision.

3.

This agreement is binding upon the parties hereto and their respective heirs, successors, administrators and assigns.

4.

This agreement shall be construed and enforced in accordance with the laws of the State of Louisiana and the parties agree that any action of law, suit or equity or judicial proceeding arising directly or indirectly in conjunction herewith shall be litigated in the courts of the State of Louisiana, Parish of East Baton Rouge.

5.

This agreement contains the entire understanding of the parties and no modification or amendments thereof shall be effective unless reduced in writing and signed by the parties hereto.

This contract shall begin on \_\_\_\_\_ and shall terminate upon completion of the final audits conducted by the Department.

Thus done and signed at Baton Rouge, Louisiana on the day, month and year first written above.

Witnesses:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_  
Louisiana Department of Wildlife  
and Fisheries

By: \_\_\_\_\_

NOTICE OF INTENT

Department of Wildlife and Fisheries

Office of Fisheries

Amending and Reinacting of Rental Rates

In accordance with the provisions of the Administrative Procedure act (R.S. 49:950), and R. S. 56:428(C), the Louisiana Wildlife and Fisheries Commission is hereby giving notice of its intention to amend LAC 76:VII to amend Paragraph 503. R. S. 56:428(C) provides that "the commission shall fix the rate of rental for oyster leases at not less than one dollar nor more than five dollars per acre per year". Existing regulations fix the rate of rental at two (2) dollars per year. The new regulation will fix the rate of rental at five dollars per acre per year. The new rule shall read:

503. Rental Rate

The rate of rental for oyster leases shall be five dollars per acre or fraction of an acre per year.

Interested persons may submit written comments on the proposed rule no later than 30 days from the date of publication of this notice of intent to:

Ronald Dugas, Seafood Division, 400 Royal, New Orleans, LA, 70130.

Approved:



---

Dr. Donald Hines  
Vice-Chairman

RULE

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

The Louisiana Wildlife and Fisheries Commission has adopted a rule increasing the rental rate of oyster leases. The Rule shall be designated as LAC 76:VII.503 and read as follows:

Title 76

WILDLIFE AND FISHERIES

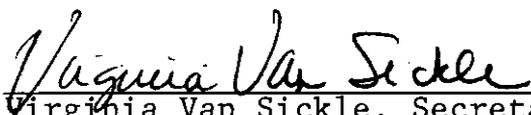
Part VII. Fish and Other Aquatic Life

503. Rental Rate

The rate of rental for oyster leases shall be five dollars per acre or fraction of an acre per year.

RESOLUTION ADOPTED BY THE LOUISIANA WILDLIFE AND FISHERIES COMMISSION  
AT THE REGULAR MEETING HELD IN BATON ROUGE, LOUISIANA ON FRIDAY,  
SEPTEMBER 9, 1988.

- WHEREAS, The fur industry of Louisiana represents a major resource of economy and income for many of the citizens of our state; and
- WHEREAS, This resource is a renewable natural one, which has proven under wise management to increase in importance in our state; and
- WHEREAS, An annual harvest of the surplus animals is in keeping with wise wildlife management techniques based on scientific management; and
- WHEREAS, Federal restrictions imposed by the CITES Scientific Authority concerning out-of-state shipment for otter and bobcat furs will again require placement of a possession tag by trappers or buyers to insure state of origin; and
- WHEREAS, The zonation concept has continued to be beneficial in reducing late caught unprime furs and has produced mainly favorable comments generated within the fur industry;
- THEREFORE, BE IT RESOLVED, That the Department of Wildlife and Fisheries does hereby establish the 1988-89 furbearer trapping season for the south zone as being December 1, 1988, through February 28, 1989. After carefully considering the market situation for some upland species, especially the raccoon, the Department, in an attempt to provide more opportunity for trapping of bobcat and fox after deer hunting seasons are closed, does hereby establish the 1988-89 furbearer trapping season for the north zone as November 20, 1988, through February 15, 1989, with the addition of an experimental season from February 16, 1989, through March 15, 1989, with trapping techniques restricted to the use of Soft-Catch traps (padded jaw traps) or their equivalent.
- BE IT FURTHER RESOLVED, That the attached regulations governing the buying, tagging and shipment of bobcat and otter pelts are adopted for the 1988-89 trapping season.
- NOW, BE IT FURTHER RESOLVED, That the Department Secretary shall be authorized to close or extend the trapping season as biologically justifiable.

  
\_\_\_\_\_  
Virginia Van Sickle, Secretary  
La. Dept. of Wildlife and Fisheries

  
\_\_\_\_\_  
Joe Palmisano, Jr., Chairman  
Louisiana Wildlife and Fisheries Commission

## NOTICE OF INTENT

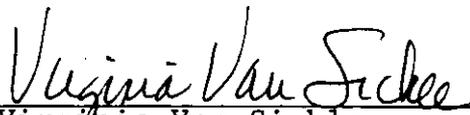
### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

The fur industry of Louisiana is the result of a major wildlife resource and provides supplemental income for many of the citizens of our state; and as this resource is a renewable natural one, which has proven under wise management to increase in importance; annual harvest of the surplus animals is in keeping with sound wildlife management principles.

The creation of a north and south trapping zone continues to allow for the most efficient harvest of prime furbearers in these two diverse habitat types within the state. Therefore, the Department of Wildlife and Fisheries does hereby establish the 1988-89 furbearer trapping season for the south zone as being December 1, 1988, through February 28, 1989. After carefully considering the market situation for some upland species, especially the raccoon, the Department, in an attempt to provide more opportunity for trapping of bobcat and fox after deer hunting seasons are closed, does hereby establish the 1988-89 furbearer trapping season for the north zone as November 20, 1988, through February 15, 1989, with the addition of an experimental season from February 16, 1989, through March 15, 1989, with trapping techniques restricted to the use of Soft-Catch traps (padded jaw traps) or their equivalent. The Department Secretary shall be authorized to close or extend the trapping season in any portion of the state as biologically justifiable.

Federal restrictions imposed by the CITES Scientific Authority for otter and bobcat furs continue to require placement of an export tag prior to out-of-state shipment. The regulations governing the buying, tagging and shipment of bobcat and otter pelts adopted for the 1988-89 trapping season may be viewed at the Quail Drive office off Perkins Road, Baton Rouge, Louisiana, phone (504)765-2344.

Interested persons may submit written comments on the proposed rule to Johnnie Tarver, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000.

  
\_\_\_\_\_  
Virginia Van Sickle  
Secretary

AGENDA  
LOUISIANA WILDLIFE AND FISHERIES COMMISSION  
BATON ROUGE, LOUISIANA  
September 8-9, 1988

1. Roll Call
2. Approval of Minutes of August 4-5, 1988  
Approved 9/8/88
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Approved 9/8/88
4. Recommend Dates for 1988-89 Fur Harvest Season  
Approved 9/8/88
5. Ratify Rules and Regulations for Wildlife Management Areas and Refuges in the Fur and Refuge Division  
Approved 9/8/88
- I ~ 10* \* 6. Notice of Intent - Survey Rules - *Jenkins-Coppell*
- I → 88* \* 7. Notice of Intent - To Increase Oyster Lease Rental - *McCall + Jenkins*
- I 241* 8. Artificial Reef Program Update  
Discussion and Slide Presentation - No Action
9. Discuss Wallop-Breaux Funds  
Motion on Artificial Reef Request Approved 9/8/88
10. Commercial Speckled Trout Fishing in Calcasieu Lake and Calcasieu River  
Discussion and Information Provided - No Action
11. Formal Award of Shell Dredging Leases  
Zone 1 and 2 Approved 9/8/88
12. Discussion of Cattle Grazing, Saline WMA  
Discussion and Information Provided - No Action
13. Ratification of Special Shooting Preserve License  
Approved 9/8/88
14. Ratification of Pen Specifications for Game Breeders  
Approved 9/8/88
15. Discussion of Duck Stamp Program  
Discussion and Legislation Explained - No Action
16. Recognition of National Hunting and Fishing Day, Sept. 24, 1988  
Resolution Approved 9/8/88
17. Law Enforcement Report for the month of August  
Approved 9/8/88
18. Set October Meeting Date *Oct 13 & 14*

OTHER BUSINESS

*Discussion of Rescheduling of Board Members*

# ACT 632

Regular Session, 1988

HOUSE BILL NO. 1877

BY REPRESENTATIVE THOMPSON AND SENATOR CRAIN AND REPRESENTATIVES MCCLEARY, LONG, AND SITTIG AND SENATORS CHABERT AND MCLEOD (SUBSTITUTE FOR HOUSE BILL NO. 381 BY REPRESENTATIVE THOMPSON)

## AN ACT

To amend and reenact R.S. 56:10(B)(1)(c) and 10(D) as amended by Act No. 230 of the 1984 Regular Session of the Legislature; to enact R.S. 56:8(115), 10(B)(1)(d) and (5), and Subpart A-1 of Part IV of Chapter 1 of Title 56 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 56:150 through 157; and to repeal R.S. 56:10(D) as amended by Act No. 883 of the 1984 Regular Session of the Legislature; relative to migratory waterfowl; to define terms; to authorize and create the Louisiana Duck Stamp Program; to provide for the purposes of the program; to require purchase of a Louisiana duck stamp in addition to a basic hunting license; to provide for the design and issuance of the duck stamp and duck stamp print; to create the Louisiana Duck Stamp Fund; to provide the manner in which monies in the fund shall be used; to provide for reciprocal agreements; to provide for penalties; and to provide for related matters.

===== **ORIGINATED** =====

===== **IN THE** =====

## House of Representatives

**RECEIVED**  
BY SECRETARY OF STATE

JUL 14 1988

GOVERNOR'S OFFICE

W. FOX MCKEITHEN  
SECRETARY OF STATE

JUL 06 1988

TIME 3:30 pm  
RECEIVED [Signature]

[Signature]  
Clerk of the House of Representatives

Regular Session, 1988

# ACT 632

HOUSE BILL NO. 1877

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Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 56:10(B)(1)(c) and 10(D) as amended by Act No. 230 of the 1984 Regular Session of the Legislature, are hereby amended and reenacted and R.S. 56:8(115), 10(B)(1)(d) and (5), and Subpart A-1 of Part IV of Chapter 1 of Title 56 of the Louisiana Revised Statutes of 1950, comprised of R.S. 56:150 through 157, are hereby enacted to read as follows:

§8. Definitions

For purposes of this Chapter, the following words and phrases have the meaning ascribed to them in this Section, unless the context clearly indicates a different meaning:

\* \* \*

(115) "Migratory waterfowl" means all species of wild ducks, geese, and coots.

\* \* \*

§10. Annual report to governor; estimate of proposed expenditures; conservation fund; seafood promotion and marketing fund; wildlife stamp research fund; Duck Stamp Fund; warrants; vouchers; surplus funds

\* \* \*

B.(1) Subject to the exception contained in Article VII, Section 9(A) of the Constitution of Louisiana, all funds collected by the commission from every source shall be paid into the state treasury and shall be credited to the Bond Security and Redemption Fund. Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer shall, prior to placing such remaining funds in the state general fund, conform to the following:

\* \* \*

(c) Pay into a special fund created in the state treasury and designated as the Conservation Fund an amount equal to the total amount of funds paid into the treasury by the commission except those funds for which provision is made in Subparagraphs (a), (b), and (d) of this Paragraph.

(d) Pay annually into a special fund created in the state treasury and designated as the Louisiana Duck Stamp Fund all amounts received pursuant to the Louisiana Duck Stamp Program

provided for in Subpart A-1 of Part IV of this Chapter and such other funds as are specifically appropriated by the legislature.

\* \* \*

(5) The monies in the Louisiana Duck Stamp Fund shall be used solely for the programs and purposes associated with the Louisiana Duck Stamp Program as provided by R.S. 56:150 through 157 in the amounts appropriated each year to the department by the legislature.

\* \* \*

D. All unexpended and unencumbered monies in the Louisiana Seafood Promotion and Marketing Fund, the Louisiana Wildlife Stamp Research Fund, the Louisiana Duck Stamp Fund, and the Conservation Fund at the end of the fiscal year shall remain in the respective funds. The monies in the funds shall be invested by the treasurer in the same manner as monies in the State General Fund. All interest earned on monies invested by the treasurer shall be deposited in the respective funds. The state treasurer shall prepare and submit to the department on a quarterly basis a printed report showing the amount of money contained in the funds from all sources.

\* \* \*

SUBPART A-1. LOUISIANA DUCK STAMP PROGRAM

§150. Purpose

The hunting of migratory waterfowl has long been a source of recreation and tourism in Louisiana. In order to protect and preserve this most valuable asset, the Louisiana Duck Stamp Program is created as a means of funding approved projects through sale of a migratory waterfowl stamp, hereinafter known as the "duck stamp", and a duck stamp print.

§151. Mandatory duck stamp

In addition to all other fees and licenses provided for by law, no person who is sixteen years of age or older shall hunt migratory waterfowl in this state unless he has purchased and has in his possession a duck stamp issued to him by the

Department of Wildlife and Fisheries. The duck stamp shall be purchased annually and shall be valid only during the open season for hunting migratory waterfowl as established by the commission.

§152. Design and issuance of stamp

A. The department shall issue duck stamps in the same manner as provided for the sale of licenses by R.S. 56:103 and 104. The resident fee for a duck stamp shall be five dollars. The nonresident fee for a duck stamp shall be seven dollars and fifty cents. The duck stamp shall be signed on its face by the person to whom it is issued.

B. The department shall provide by regulation the form and design of the duck stamp and the manner by which an artist shall be selected. The regulations shall provide that for each of the first three years of the program, the artist shall be domiciled in Louisiana and shall be selected by a competition which shall be open to all artists who are domiciled in Louisiana. The department shall retain exclusive ownership and production rights to the design.

§153. Design and sale of prints

The department shall provide by regulation for the reproduction, distribution, and marketing of prints of the duck stamp design. However, reproduction, distribution, and marketing of the print shall be the responsibility of the artist, in accordance with regulations, provided that a minimum royalty per print shall be guaranteed to the department and paid into the Louisiana Duck Stamp Fund.

§154. Basic hunting license required

Possession of a duck stamp shall not authorize a person to hunt migratory waterfowl without having purchased a basic hunting license as provided by R.S. 56:103.

§155. Louisiana Duck Stamp Fund; purposes

A. Funds received by the Department of Wildlife and Fisheries pursuant to the sale of duck stamps and art prints

shall be placed in the Louisiana Duck Stamp Fund as provided by R.S 56:10(B).

B. Subject to appropriation, the monies in the Louisiana Duck Stamp Fund shall be used:

(1) To acquire lands in Louisiana which have the primary and direct purpose of conserving, restoring, and enhancing migratory waterfowl habitat.

(2) To carry out migratory waterfowl habitat restoration and enhancement projects on lands under the jurisdiction of the Louisiana Department of Wildlife and Fisheries.

(3) To fulfill the purposes of Paragraphs (1) and (2) of this Subsection, when feasible and when in coastal areas, in a manner which will contribute to the protection of the coastal areas of the state from deterioration and which will enhance the productivity of the coastal marshes.

(4) To acquire lands for wildlife and game management.

C. Subject to appropriation, the monies in the Louisiana Duck Stamp Fund may be used:

(1) To make grants, not to exceed ten percent of the program revenues, to the North American<sup>N</sup> Waterfowl Habitat Conservation Plan for the purpose of acquiring, developing, or maintaining migratory waterfowl areas within Louisiana.

(2) To cover the administrative costs associated with the implementation of the Louisiana Duck Stamp Program, not to exceed five percent of the program revenues.

#### §156. Reciprocal agreements

The department may negotiate a reciprocal agreement with any state that shares a common boundary with Louisiana if the neighboring state has a similar duck stamp requirement and fee. The agreement may permit a resident of the state with which the agreement is made to hunt migratory waterfowl in this state without a Louisiana duck stamp if the person possesses a waterfowl stamp issued by the other state.

H.B. NO. 1877

§157. Penalties

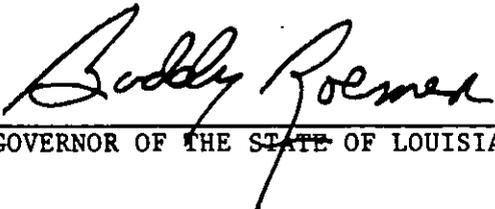
Whoever violates the provisions of this Subpart shall be subject to a class one violation.

Section 2. R.S. 56:10(D) as amended by Act No. 883 of the 1984 Regular Session is hereby repealed in its entirety.

Section 3. The provisions of this Act shall become effective on September 1, 1989.

  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

  
PRESIDENT OF THE SENATE

  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED:

7/14/88

AGENDA  
 LOUISIANA WILDLIFE AND FISHERIES COMMISSION  
 BATON ROUGE, LOUISIANA  
 September 8-9, 1988

1. Roll Call
2. Approval of Minutes of August 4-5, 1988
- I 17 3. Netting Regulations-Black and Clear Lakes, Natchitoches and Red River Parishes, La.
4. Recommend Dates for 1988-89 Fur Harvest Season
- 1-102 5. Ratify Rules and Regulations for Wildlife Management Areas and Refuges in the Fur and Refuge Division *Greg L's slideshow*
- 1-336 6. Oyster Survey Report
- 1-357 7. Notice of Intent - Survey Rules
- 1-438 8. Seismic Report
- 1-885 9. Artificial Reef Program Update
- 3-13 10. Discuss Wallop-Breaux Funds — 3 — *Files of type 3/4-000*
- 3-327 11. Commercial Speckled Trout Fishing in Calcasieu Lake and Calcasieu River *Zero's presentation*
- 2-000 12. Formal Award of Shell Dredging Leases
- 4-245 13. Discussion of Cattle Grazing, Saline WMA
- 2-43 14. Ratification of Special Shooting Preserve License
- 2-306 15. Ratification of Pen Specifications for Game Breeders
- 2-326 16. Discussion of Duck Stamp Program
- 2-342 17. Recognition of National Hunting and Fishing Day, Sept. 24, 1988
- ~~2-447~~  
2-470 18. Law Enforcement Report for the month of August
- 2-530 19. Shikar-Safari International Wildlife Officer of the Year Award by Richard Cochran
- I I-50 20. Select Member for Deer Management Task Force
- 2-711

0545 - presentation of fish tagging spot by Maumus Clause to Bettie Baker

need flat board for clipping  
 Rolled-up maps. ferrous metal  
 so can use magnetic stripping to  
 mount maps

AGENDA  
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Approved 9/8/88
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OTHER BUSINESS

NOTICE OF INTENT

Louisiana Department of Wildlife and Fisheries  
Louisiana Wildlife and Fisheries Commission

Pursuant to the authority granted under Louisiana Revised Statutes, Title 56, Section 22, the Louisiana Wildlife and Fisheries Commission hereby advertises its intent to prohibit the use of gill and trammel nets in Black Lake and Clear Lake in Natchitoches and Red River Parishes. The proposed ban will extend from January 1, 1989 to December 31, 1990.

Interested persons may submit written comments on the proposed rule to the following address: Bennie J. Fontenot, Jr., Chief, Inland Fish Division, Louisiana Department of Wildlife and Fisheries, P. O. Box 15570, Baton Rouge, Louisiana, 70895.

RULE

Louisiana Department of Wildlife and Fisheries  
Louisiana Wildlife and Fisheries Commission

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Louisiana Wildlife and Fisheries Commission

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FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

Person Preparing Statement:	<u>Kenneth E. Lantz</u>	Dept:	<u>Wildlife &amp; Fisheries</u>
Phone:	<u>(318) 352-2181</u>	Office:	<u>Wildlife</u>
Return Address:	<u>Dept. of Wildlife &amp; Fisheries</u> <u>P. O. Box 278</u> <u>Tioga, LA 71477</u>	Rule Title:	<u>Net Ban in Black Lake and Clear Lake</u>
		Date Rule Takes Effect:	<u>January 1, 1989-December 30, 1990</u>

SUMMARY

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. The following summary statements, based on the attached worksheets, will be published in the Louisiana Register with the proposed agency rule.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out using the existing staff. Natchitoches and Red River Parish Enforcement Agents are presently employed to patrol Black Lake and Clear Lake as part of their routine duties.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule will have no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment in the public and private sectors.

\_\_\_\_\_  
Signature of Agency Head or Designee

\_\_\_\_\_  
LEGISLATIVE FISCAL OFFICER OR DESIGNEE

\_\_\_\_\_  
Typed Name and Title of Agency Head or Designee

\_\_\_\_\_  
Date of Signature

\_\_\_\_\_  
Date of Signature

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberations on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated)

The proposed rule prohibits the use of fish harvest webbing (gill and trammel nets) in all parts of Black Lake - Clear Lake located in Natchitoches and Red River Parishes. The webbing ban is for a two-year period commencing January 1, 1989 and extending to December 31, 1990.

- B. Summarize the circumstances which require this action. If the action is required by federal regulations, attach a copy of the applicable regulation.

A need exists to remove fish harvest webbing (gill and trammel nets) from Black Lake and Clear Lake for a period of two years. Various studies in Louisiana impoundments have shown this type of commercial webbing is detrimental to gamefish populations. The lakes supports a very low population of commercial fish. The primary commercial fish present is catfish. Catfish can be harvested using other commercial gear such as hoop nets, slat traps and set hooks.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session  
(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

The proposed rule will not result in an increase in the expenditure of funds.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

- (a) \_\_\_\_\_ Yes. If yes, attach documentation.  
(b) \_\_\_\_\_ No. If no, provide justification as to why this rule change should be published at this time.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 87-88	FY 88-89	FY 89-90
PERSONAL SERVICES			
OPERATING EXPENSES			
PROFESSIONAL SERVICES			
OTHER CHARGES			
EQUIPMENT			
<b>TOTAL</b>	-0-	-0-	-0-

MAJOR REPAIR & CONSTR.

POSITIONS (#)

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

No costs or savings are anticipated to implement the proposed action. Enforcement of the proposed rule will be carried out using the existing staff.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 87-88	FY 88-89	FY 89-90
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
DEDICATED			
FEDERAL FUNDS			
OTHER (Specify)			
<b>TOTAL</b>	-0-	-0-	-0-

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

No funds will be required to implement the proposed action.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

The proposed rule will have no impact on local governmental units.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

There will be no impact on the source of funding of local governmental units.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

<u>REVENUE INCREASE/DECREASE</u>	<u>FY 87-88</u>	<u>FY 88-89</u>	<u>FY 89-90</u>
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS			
LOCAL FUNDS			
<u>TOTAL</u>	-0-	-0-	-0-

\*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

There will be no increase or decrease in revenue as a result of the proposed action.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

Effects on commercial fishermen will be insignificant since Black Lake and Clear Lake do not support a viable commercial fisheries. In addition, the primary commercial sought after fish, is catfish. Catfish can still be harvested utilizing hoop nets, slat traps and set hooks.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

The proposed rule will have no revenue impact on these groups.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

The proposed rule will have no impact on competition and employment in the public and private sectors.

RESOLUTION ADOPTED BY THE LOUISIANA WILDLIFE AND FISHERIES COMMISSION  
AT THE REGULAR MEETING HELD IN BATON ROUGE, LOUISIANA ON FRIDAY,  
SEPTEMBER 9, 1988.

WHEREAS, The fur industry of Louisiana represents a major resource of economy and income for many of the citizens of our state; and

WHEREAS, This resource is a renewable natural one, which has proven under wise management to increase in importance in our state; and

WHEREAS, An annual harvest of the surplus animals is in keeping with wise wildlife management techniques based on scientific management; and

WHEREAS, Federal restrictions imposed by the CITES Scientific Authority concerning out-of-state shipment for otter and bobcat furs will again require placement of a possession tag by trappers or buyers to insure state of origin; and

WHEREAS, The zonation concept has continued to be beneficial in reducing late caught unprime furs and has produced mainly favorable comments generated within the fur industry;

THEREFORE, BE IT RESOLVED, That the Department of Wildlife and Fisheries does hereby establish the 1988-89 furbearer trapping season for the south zone as being December 1, 1988, through February 28, 1989. After carefully considering the market situation for some upland species, especially the raccoon, the Department, in an attempt to provide more opportunity for trapping of bobcat and fox after deer hunting seasons are closed, does hereby establish the 1988-89 furbearer trapping season for the north zone as November 20, 1988, through February 15, 1989, with the addition of an experimental season from February 16, 1989, through March 15, 1989, with trapping techniques restricted to the use of Soft-Catch traps (padded jaw traps) or their equivalent.

BE IT FURTHER RESOLVED, That the attached regulations governing the buying, tagging and shipment of bobcat and otter pelts are adopted for the 1988-89 trapping season.

NOW, BE IT FURTHER RESOLVED, That the Department Secretary shall be authorized to close or extend the trapping season as biologically justifiable.

---

Virginia Van Sickle, Secretary  
La. Dept. of Wildlife and Fisheries

---

Joe Palmisano, Jr., Chairman  
Louisiana Wildlife and Fisheries Commission

## NOTICE OF INTENT

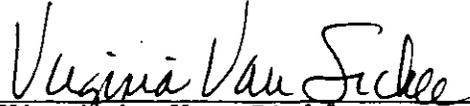
### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

The fur industry of Louisiana is the result of a major wildlife resource and provides supplemental income for many of the citizens of our state; and as this resource is a renewable natural one, which has proven under wise management to increase in importance; annual harvest of the surplus animals is in keeping with sound wildlife management principles.

The creation of a north and south trapping zone continues to allow for the most efficient harvest of prime furbearers in these two diverse habitat types within the state. Therefore, the Department of Wildlife and Fisheries does hereby establish the 1988-89 furbearer trapping season for the south zone as being December 1, 1988, through February 28, 1989. After carefully considering the market situation for some upland species, especially the raccoon, the Department, in an attempt to provide more opportunity for trapping of bobcat and fox after deer hunting seasons are closed, does hereby establish the 1988-89 furbearer trapping season for the north zone as November 20, 1988, through February 15, 1989, with the addition of an experimental season from February 16, 1989, through March 15, 1989, with trapping techniques restricted to the use of Soft-Catch traps (padded jaw traps) or their equivalent. The Department Secretary shall be authorized to close or extend the trapping season in any portion of the state as biologically justifiable.

Federal restrictions imposed by the CITES Scientific Authority for otter and bobcat furs continue to require placement of an export tag prior to out-of-state shipment. The regulations governing the buying, tagging and shipment of bobcat and otter pelts adopted for the 1988-89 trapping season may be viewed at the Quail Drive office off Perkins Road, Baton Rouge, Louisiana, phone (504)765-2344.

Interested persons may submit written comments on the proposed rule to Johnnie Tarver, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000.

  
\_\_\_\_\_  
Virginia Van Sickle  
Secretary

RESOLUTION ADOPTED BY THE LOUISIANA WILDLIFE AND FISHERIES COMMISSION  
AT THE REGULAR MEETING HELD IN BATON ROUGE, LOUISIANA ON FRIDAY,  
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---

Virginia Van Sickle, Secretary  
La. Dept. of Wildlife and Fisheries

---

Joe Palmisano, Jr., Chairman  
Louisiana Wildlife and Fisheries Commission

**A RESOLUTION**

The LA Trappers and Alligator Hunters Association has adopted a resolution to ask for an experimental 30 day extension of a trapping season in the North Zone with soft catch traps only.

Thank you,

*Bob Watson*

Bob Watson  
President LTAA

AUG 09 88



Virginia Van Sickle  
SECRETARY  
15041 925-3617

DEPARTMENT OF WILDLIFE AND FISHERIES  
NEW IBERIA FIELD OFFICE  
ROUTE 4 BOX 78  
NEW IBERIA, LOUISIANA 70560  
318/369-3807

Buddy Roemer  
GOVERNOR

M E M O R A N D U M

TO: Johnnie Tarver, Administrator  
FROM: Greg Linscombe, Program Manager  
DATE: August 29, 1988  
RE: Summary of the 1987-88 Trapping Season  
and Recommendations for the 1988-89 Season

Results of the 1987-88 trapping season indicate a decrease in value of \$3.3 million from the 1986-87 season. Over forty-five percent of the decline in value was a result of the drop in nutria prices and harvest. The muskrat harvest showed little change in price and increased only by 20,000 pelts. The raccoon harvest last season was only 68 percent of the previous year's harvest and the value dropped by \$1.4 million. Another 42 percent of the decline in overall Louisiana fur value can be attributed to this drop in raccoon harvest and value.

NUTRIA

The nutria contributed an average of 52 percent of the harvest for the 10 year period 1978-79 through 1986-87. The 10 year average value for nutria was \$4.4 million as compared to \$1.6 million for this past season. This past year's harvest of 617,646 is still well below the 10 year average of 980,691 nutria. The average price paid to trappers for nutria pelts was \$2.58 for this past season compared to an average of \$4.51 for the previous 10 years. Prices paid for eastern nutria dropped from \$3.16 to \$2.34 while western prices dropped from \$3.90 to \$3.03. These drops in average pelt prices were reflected in this past year's harvest with the harvest of eastern nutria dropping by almost 240,000 and western dropping by 129,000 pelts. Obviously harvest is directly related to the prices received by the trapper. These continued low prices for nutria are more justification for the advertising and promotional campaigns being conducted by the Fur and Alligator Advisory Council.

Johnnie Tarver, Administrator  
August 29, 1988  
Page -2-

Reports from land managers and trappers show increased nutria populations in some areas of the coast. Reports from fur dealers indicate a substantial inventory of nutria on hand and retail sales and skin markets that appear to be very slow in developing this year, not only for nutria but all furs. If nutria prices remain low for one or perhaps two years, I predict substantial coastal vegetation damage over a large portion of Louisiana. It is also quite possible that the damage in rice and sugarcane fields might increase.

#### MUSKRAT

The harvest of muskrat last year (163,670) increased only slightly from the 1986-87 season (143,538). Prices paid for westerns increased slightly and prices for easterns declined. However, overall the average price did not change significantly.

Harvest of western muskrat was concentrated in eastern Vermilion Parish stretching from Vermilion Bay to Pecan Island. Muskrat harvest also occurred in substantial numbers along the eastern shore of Sabine Lake and North of Creole in Cameron Parish. Although the harvest was substantial on State Wildlife Refuge, Paul J. Rainey and portions of Vermilion Corporation and McIlhenny Property some eatouts occurred and vegetative damage is still obvious. On State Wildlife over 25 trappers harvested over 30,000 muskrat on this 15,000 acre area. However, even with this effort damage occurred. Some of these areas in southwest Louisiana should again have substantial populations of muskrats assuming they are not impacted by hurricanes between now and trapping season.

Muskrat populations continue to be noticeably missing in southeastern marshes. This lack of animals is directly related to the major flooding that occurred during the 1985 hurricane season and eatouts that occurred early during the 1980's. However, the key food plant for muskrats, three-cornered grass (Scirpus olneyi), is showing a dramatic increase in this area of the coast. Some signs of muskrat increase are apparent, however it will probably be another year before dramatic increases are noted.

Although there are slight inventories of muskrats on hand there appears to be an increased interest in this particular fur. The outlook for muskrat prices is encouraging because of the interest demonstrated in this fur at the major fur fairs this spring. Prices may be improved also as a result of the drought and resulting short harvest in the mid west and northeast United States.

## RACCOON

The 1987-88 raccoon harvest (164,184) dropped by 76,000 from the second highest harvest on record. Although the harvest of raccoons dropped both in upland and coastal areas, the drop in the upland area was greater. Prices for upland raccoons dropped to an average of \$6.75 while the previous year's average was \$13.00. The average price paid for upland raccoon during the previous 10 years has been approximately \$12.00. The overall value of the raccoon resource has averaged almost \$2 million, however during this past season the total value was only \$939,000. The raccoon continues to be the most valuable fur resource outside of the coastal marshes. In this area of the State, 2,000 to 5,000 licensed trappers are involved in harvesting this resource. Prices paid for raccoons in states North of Louisiana during the past season were not that different from previous years. However, since Louisiana begins harvest much later than northern states, the scare on Wall Street in late October had a much more significant impact on our price and thus our harvest. The harvest of raccoons this next year is expected to be even lower and as a result I anticipate increased reports of sick raccoons and probably substantial die-offs related to canine distemper.

## FUR HARVEST VALUE

The overall value of Louisiana fur harvest has continued to decline dramatically from the 1980-81 season when the harvest was worth over \$18 million. The average value for the past 10 years has been approximately \$9 million, however, we have been well below that average for seven of the last ten years. This trend is not expected to change until the prices and related harvest for nutria, muskrat, or raccoon show a significant turnaround.

## TRAPPING LICENSE SALES

Last year was the second season with the new \$25 and \$5 trapping licenses. As expected the number of licenses was down from the previous year. A total of 9,458 licenses were sold in 1985-86, 6,947 in 1986-87 and 5,038 in 1987-88. This reduction in license sales is probably more a result of the prices paid for fur than the cost of the license. Since the raccoon is the most important species in North Louisiana and 50 percent of the licenses are sold outside of the coast, the results of low prices for raccoons was a substantial drop in license sales in this area. When trapping license sales drop this means less income to the Fur and Alligator Advisory Council and thus lower funding for this program that is designed to assist in solving some of the problems of the industry.

Johnnie Tarver, Administrator  
August 29, 1988  
Page -4-

This catch 22 makes it even more important for the Council to attempt to communicate with the trappers of the State. The communication problem has been very difficult since trapping licenses continue to be the only commercial license not issued solely by the Department but sold through the Sheriff's Office and sporting good stores. This system of license sales results in many addresses which cannot be read and a delay in obtaining names and addresses as well as number of licenses sold in each parish. Department renewals by mail were attempted for two years, however as long as licenses remain available locally in sporting good and hardware stores, trappers will be reluctant to renew by mail.

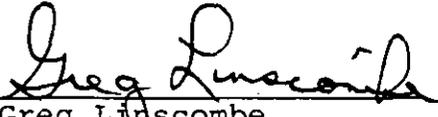
The Division will again request a special effort be made by enforcement agents to check trappers for proper licensing. Raccoon hunters selling fur are also required to have a trapping license.

#### RECOMMENDATION FOR THE 1988-89 SEASON

As per attached resolution:

SOUTH ZONE: December 1, 1988 through February 28, 1989  
NORTH ZONE: November 20, 1988 through February 15, 1989  
EXPERIMENTAL SEASON: Soft Catch only (Padded Trap)  
February 16, 1989 through March 15, 1989

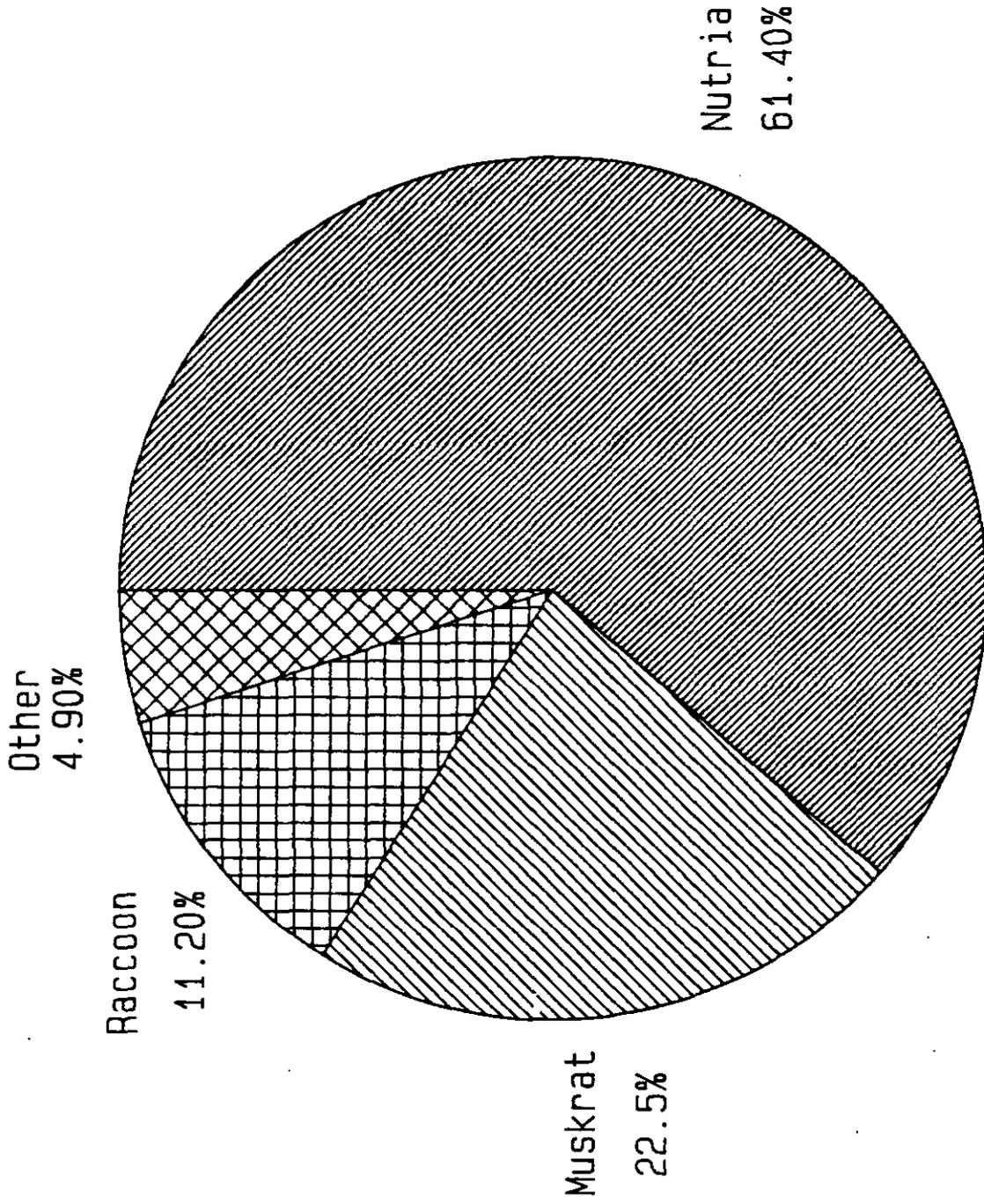
This proposed experimental season is being considered for two reasons. It will allow trappers to attempt to harvest more bobcat and fox after the deer hunting season with dogs has ended as well as the quail and rabbit seasons. Hunters concerned about the possibility of hunting dogs being accidentally caught in traps, will be more likely to allow trapping after these seasons have closed. This experimental season will also allow the continued introduction of the Soft Catch trap. The padded jaw trap has been developed over a number of years and has demonstrated substantial reduction in injury while maintaining good catch efficiency. Many progressive state wildlife agencies are encouraging the use of this trap and several will be mandating the use of this trap in the very near future.

  
Greg Linscombe  
Program Manager

GL:ybd

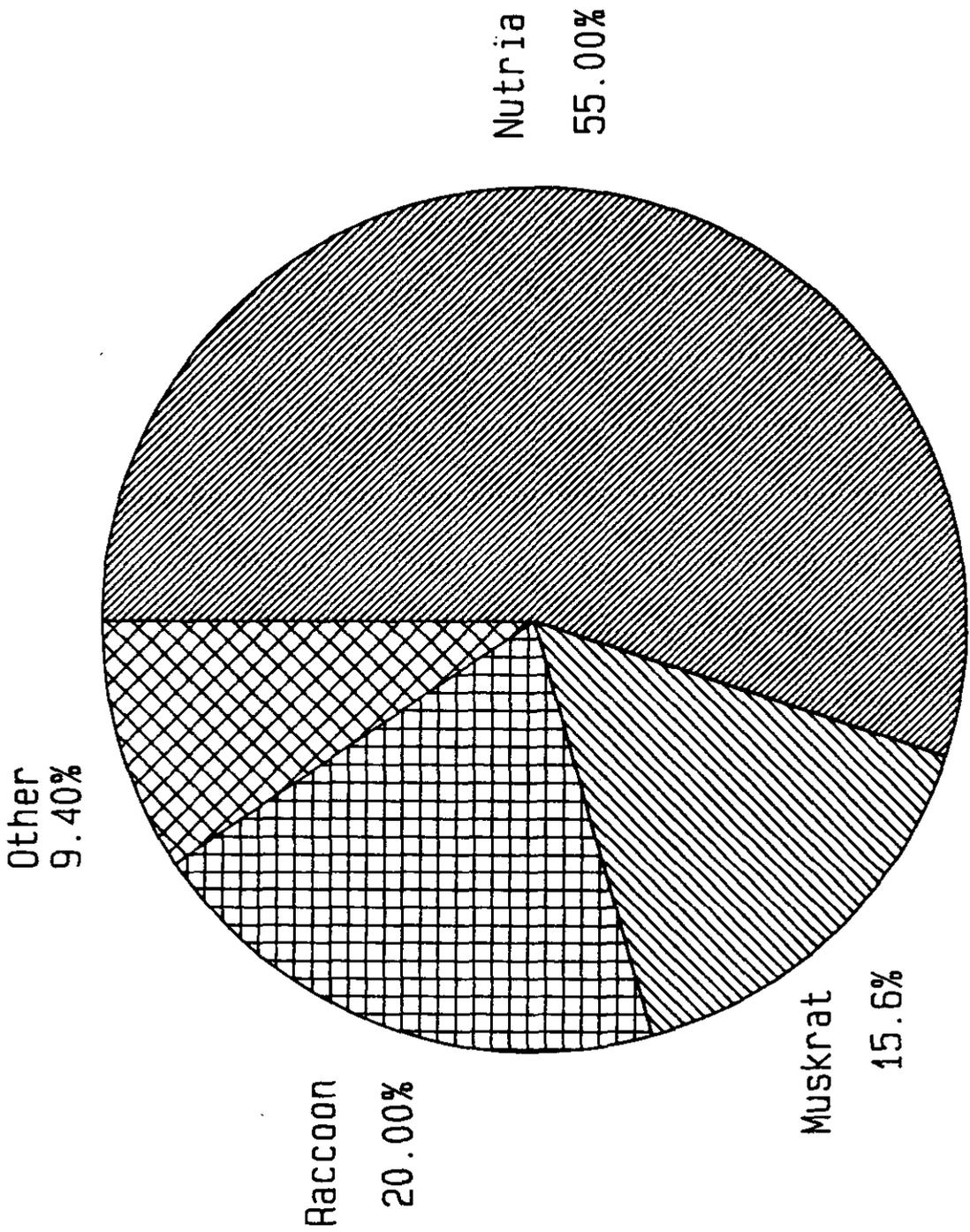
Attachments

# Harvest Composition by Species



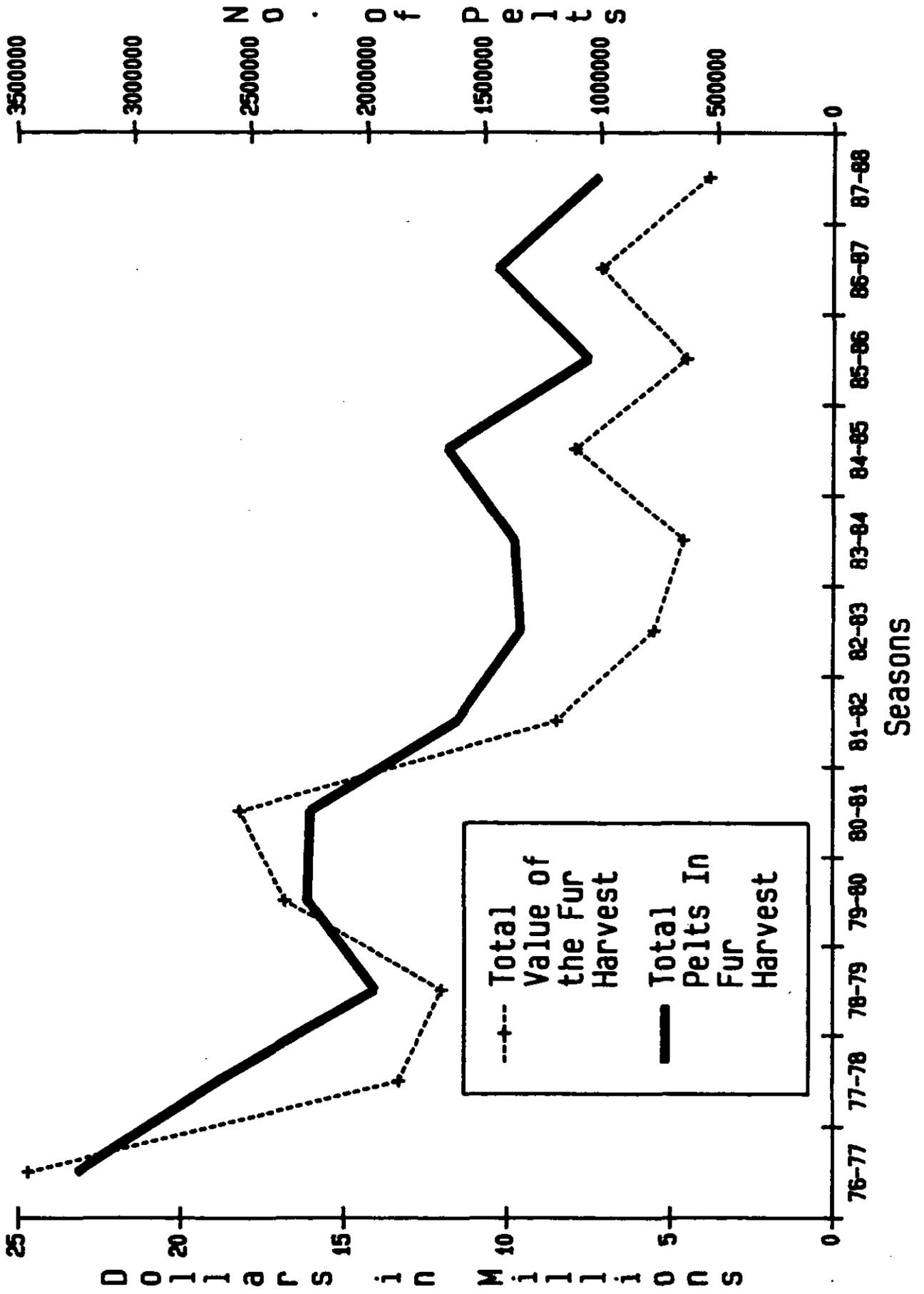
Data compiled from  
1978-79 through 1986-87 trapping seasons

Value Composition by Species

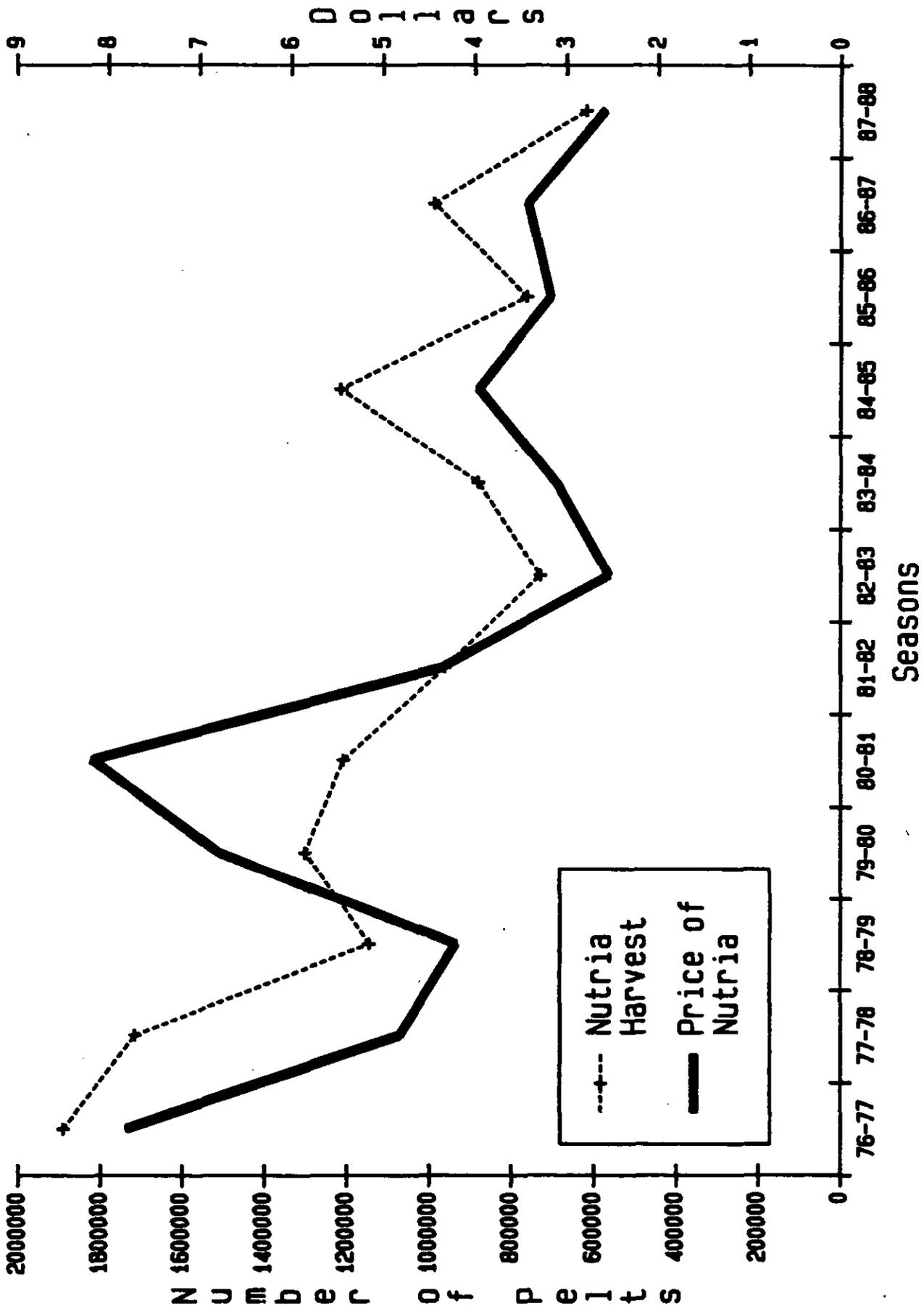


Data compiled from 1978-79 through 1986-87 trapping seasons

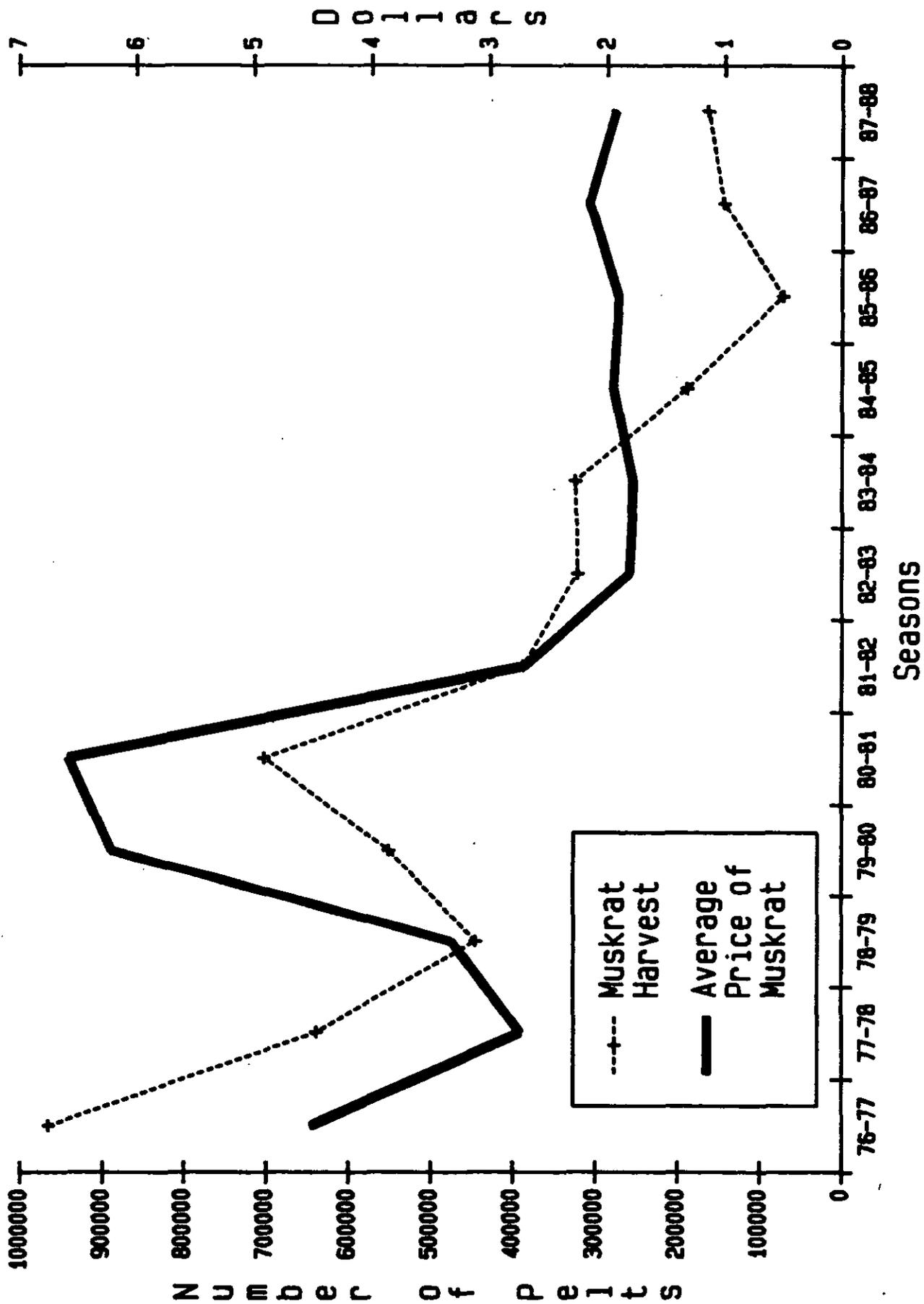
# Total Value and Pelts in Fur Harvest



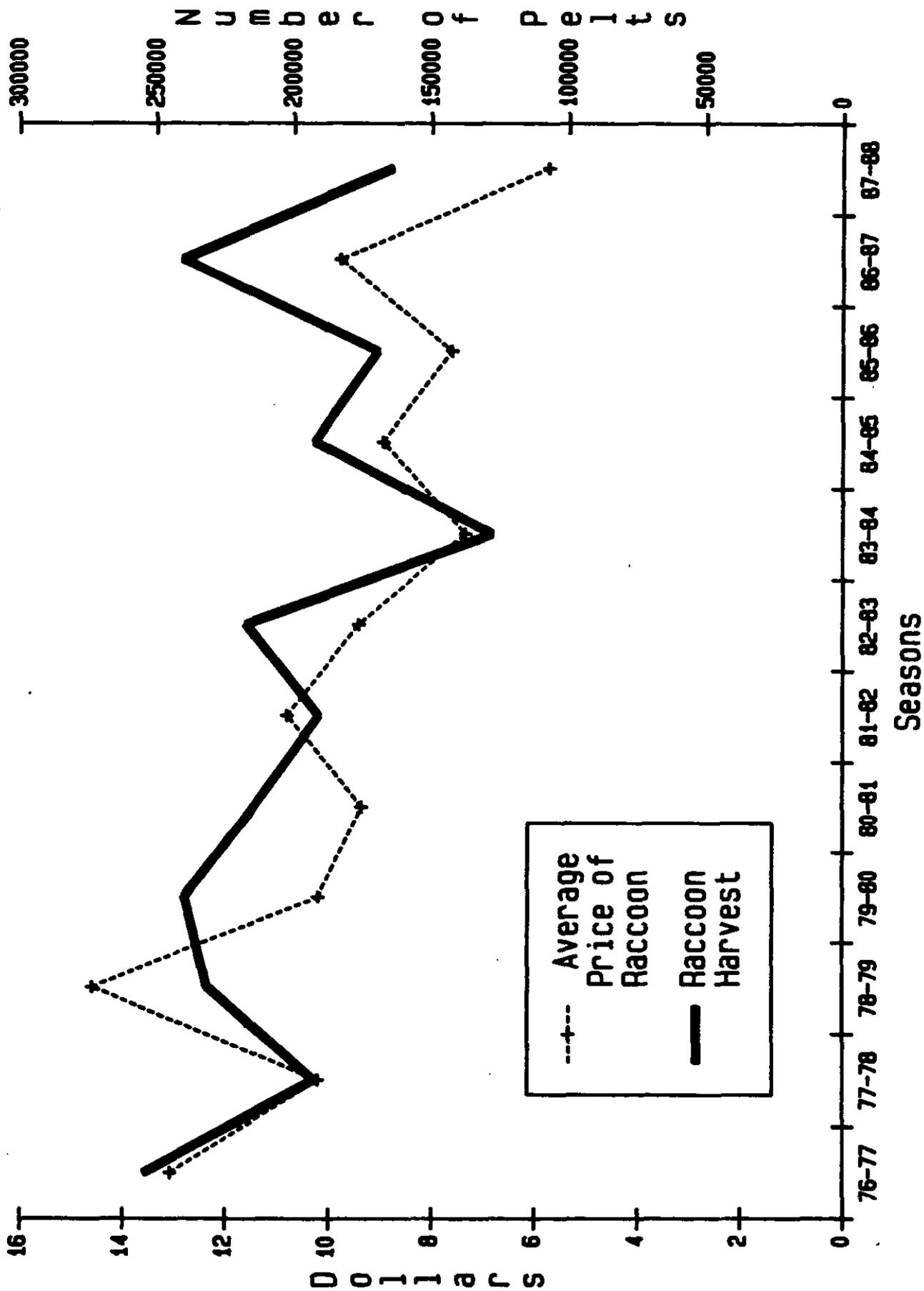
# Nutria Harvest and Price



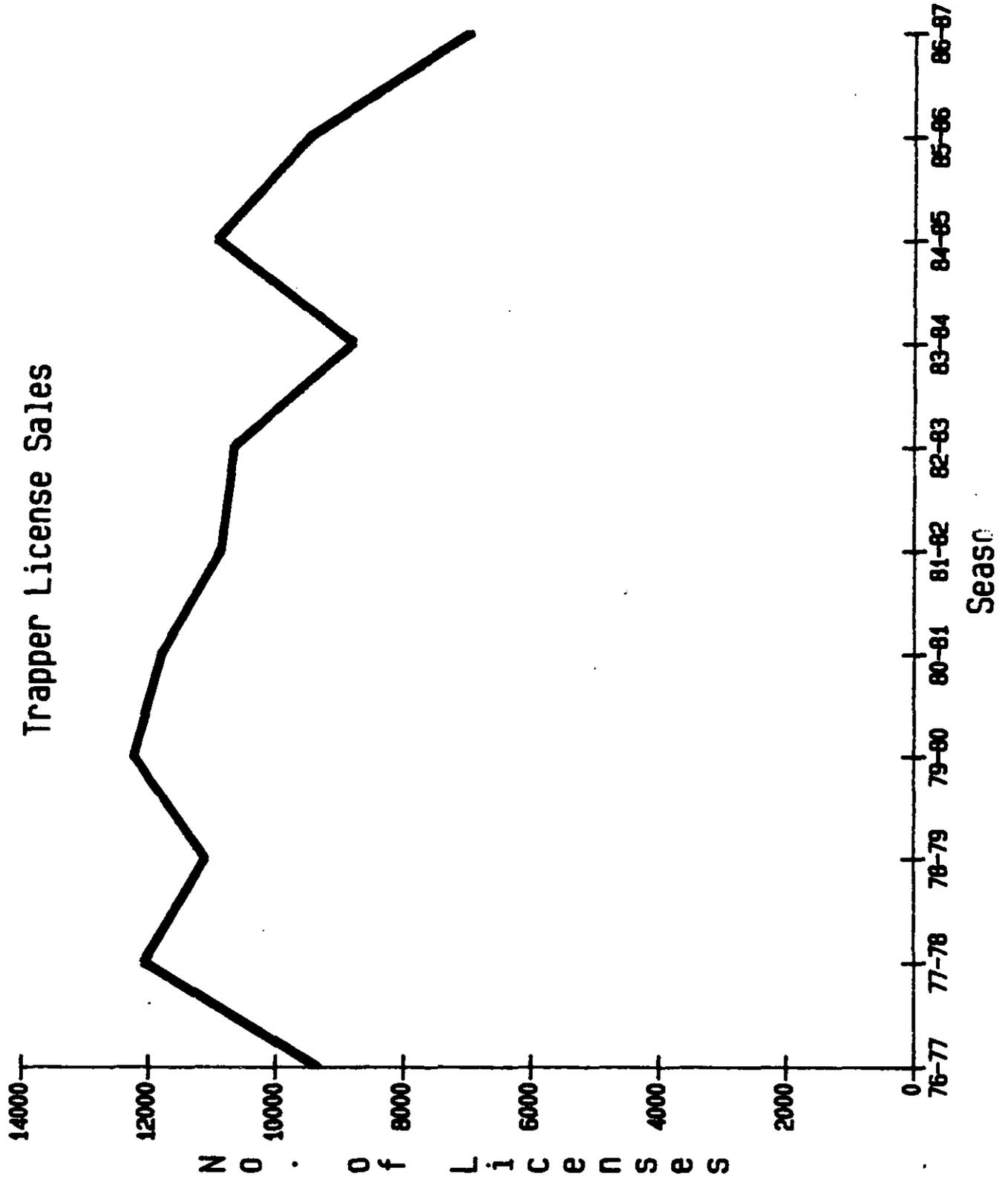
# Muskrat Harvest and Price

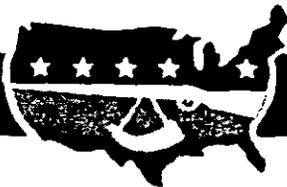


# Raccoon Harvest and Price



# Trapper License Sales





Vital Legislative, Regulatory, Election and Court News

Newsletter—The Wildlife Legislative Fund of America

50 West Broad Street, Columbus, Ohio 43215 / (614) 221-2684

## A Decade of Protecting the Heritage of Sportsmen

The Wildlife Legislative Fund of America is celebrating its tenth year of protecting the rights of sportsmen to hunt, fish and trap.

This special issue of *Update* is devoted to tracing the WLFA's effective history of service to American sportsmen.

"We are proud, for ten years, to have successfully defended and advanced the rights of sportsmen," said WLFA President Jim Glass. "And we are doubly proud that so many leaders of the conservation community have seen fit to recognize our work." (see story p. 2)

That work began on a national basis in 1978, but the WLFA's roots go back to the landmark Ohio ballot issue campaign of 1977 in which sportsmen rose up to defeat the anti-hunting movement by a huge margin of victory.

Animal rights activists had succeeded in getting on the ballot that year a proposed amendment to the Ohio Constitution to ban all trapping in Ohio. Glass, with the help of current WLFA Board Chairman Daniel M. Galbreath, mounted a massive campaign to defeat the anti-hunters.

The American Fur Industry provided the campaign a major shot in the arm through significant financial and manpower contributions. The Industry's support was a leading factor in the campaign and has been a leader in dozens of subsequent fights to protect sportsmen's rights.

The pro-sportsman campaign called on the manpower resources of sportsmen's organizations throughout Ohio. Media relations

and paid advertising campaigns were mounted. A coalition of all interests affected by a trapping ban was put into place, including Ohio's wildlife, agriculture and public health agencies, trappers, hunters, fishermen, farmers, lawyers, church groups, organized labor and many others.

In spite of pre-election surveys that predicted that trapping would lose by a huge margin, the election results showed that the sportsman's campaign had worked—Ohio voters endorsed trapping by a whopping 2-1 margin.

Following the successful campaign, Glass resumed his duties as an executive with the aerospace giant, Rockwell International. Public relations professional Jim Goodrich, who had been hired as campaign manager, and lawyer Jim Hanson went back to their respective businesses.

But, the telephone began to ring. Calls poured in to Glass from wildlife agencies and sportsmen leaders who were experiencing their own problems in other states with the anti-hunting movement. California, Georgia, New Jersey and other

*continued on page 2*

THE WHITE HOUSE

WASHINGTON

April 1, 1988

It is a pleasure to congratulate The Wildlife Legislative Fund of America on your 10th Anniversary.

America has been blessed with abundant wilderness and wildlife that must be cherished and protected. Your organization has dedicated the past decade to wildlife conservation and management, protecting both our wildlife and the interests of thousands of American sportsmen and sportswomen. Future generations of Americans will be forever grateful for your responsibility and foresight.

Nancy and I send our best wishes for a joyful celebration, and for many more anniversaries. God bless you, and God bless this beautiful land we share.

Ronald Reagan

## A Decade of Protecting the Heritage of Sportsmen

states called for help. Glass and Co. helped each as best they could, but one thing was becoming obvious; a full-time effort was needed to meet the challenges posed by the animal rights movement.

Dale Whitesell, then executive vice president of Ducks Unlimited, speaking on behalf of the entire nation's conservation community, may have best summed up the need for the WLFA: "DU's singleness of purpose on behalf of waterfowl precludes it from being involved in either broad-based environmental or sportsmen's rights issues. For each organization in the conservation movement to try to combat the anti-hunters would result in a costly duplication of effort.

"Through support of the WLFA, our resources can be focused on the protection of sportsmen's rights and at the same time, we can continue our work on behalf of waterfowl."

And so, The Wildlife Legislative Fund of America was born, along with its companion organization for legal defense, research and public education, The Wildlife Conservation Fund of America.

Galbreath joined the Board of Directors as one of its initial members and helped to select for the Board 15 other top sportsmen leaders (see p. 3). Goodrich closed down his public relations business and became senior vice president. Hanson joined the staff as general counsel.

Funding came from national, state and local sportsmen's conservation organizations, from individual sportsmen, corporations with a stake in the outdoor field, and philanthropic foundations.

Ten years after its incorporation, the WLFA has attracted the support of virtually every major, national sportsmen's conservation organization and over 200 manufacturers and wholesalers of hunting, fishing and trapping gear, along with concerned individuals and other business entities that would be adversely affected by the anti-hunting movement.

Supporters include Ducks Unlimited, which has steadfastly supported the WLFA's work for most of our existence. The Foundation for North American Wild Sheep, Ruffed Grouse Society,

National Wild Turkey Federation, American Archery Council, Shikar-Safari Club International, Professional Bowhunters Society, Mzuri Wildlife Foundation, The American Fur Industry, National Trappers Association, Fur Takers of America, and many, many other top organizations have supported the WLFA's work through the years.



Elliot Lippin, president of the American Fur Industry, which has steadfastly supported sportsmen and the fur trade through its support of the WLFA over the years.

The WLFA's mission is to organize sportsmen for their own defense, providing money and manpower as necessary. As this newsletter describes, several philosophies have been key in the success

that WLFA has enjoyed on behalf of its sportsmen constituents.

One of these is the building of coalitions, an extremely important element in successful campaigns to unite varied and diverse groups of interests adversely affected by the anti-hunting movement.

Another is the use of sound business practices in the administration of WLFA programs and campaigns.

"We are not simply sportsmen who play at the important work of defending the heritage of the outdoors," says Galbreath. "We are businessmen, who happen to be sportsmen. The guiding philosophy of our organization is to make certain that our limited dollars—our contributors' dollars—are spent wisely and effectively."

Glass sums up the working philosophy by saying "None of our board or staff is a good loser. Winning is our goal and we do what's necessary to ensure a favorable outcome for the sportsmen of this country in any and every issue in which we become involved.

"The stakes are too large to operate any other way," he concludes. "The outdoor heritage is an integral part of the lives of all of us and our members. We have vowed to protect that heritage and we will!"

## Congratulations Pour In For WLFA Anniversary

The Wildlife Legislative Fund of America turns ten years old in 1988, and conservationists nationwide are praising the work of the nation's principal counterforce to the anti-hunting, animal rights movement.

The WLFA's mailbox has been brimming in recent weeks with letters of congratulations from the principal "movers and shakers" in the conservation movement, nationally, and from high level government officials. All extend high praise for the work of the WLFA over the past decade.

"It's a pleasure to congratulate the Wildlife Legislative Fund of America on your 10th Anniversary," wrote President Reagan, "Future generations of Americans will be forever grateful for your responsibility and foresight."

Vice President George Bush expressed similar sentiments in his letter.

"Your efforts to protect scientific wildlife management practices have done wonders to increase Americans' enjoyment of the outdoors," he wrote. "And, as a sportsman myself, I can't help but appreciate your work in providing legal, legislative and public relations services for the thousands of sportsmen and sportswomen in our country.

"All of us who enjoy wildlife in America owe you a debt of gratitude for your fine work," he continued.

"Since the inception of your organization just ten years ago, you have compiled an outstanding record on behalf of America's wildlife and outdoorsmen," said Jim Wright,

continued on page 2



## WLFA State Services Division Defends Sportsmen Nationwide

**James H. Glass** has served as WLFA's only President and Chief Executive Officer. He has previously had an active leadership role in numerous sportsmen's and wildlife management organizations. He was an executive of Rockwell International.

**Col. Thomas E. Bass** is a former executive of Colt Industries. Retired from a distinguished military career, Col. Bass has played a key role in sportsmen's and wildlife groups.

**Dr. Edward L. Kozicky** is an eminent wildlife management expert. A former U.S. Fish and Wildlife Service official and author in the field of wildlife management, he is a former Director of Conservation for Olin's Winchester Group.

**David B. Meltzer** is Chairman of the Board of Evans, Inc., the world's largest furrier. He has also been a director of the National Retail Merchants Association.

**William E. Moffett** is a former senior vice president and board member of Ducks Unlimited. A former Gulf Oil Company executive, he is an active member of numerous sportsmen's and other conservation groups.

**J. Hibbard Robertson, Sr.** is Senior Vice President of Woodstream Corporation, a major sporting goods manufacturer and the nation's largest trapping equipment firm.

### Directors Emeritus

**Joseph J. Foss** is a Congressional Medal of Honor winner, former Governor of South Dakota and president of the National Rifle Association.

**Joseph W. Hudson** is a former member of the South Carolina Wildlife and Marine Resources Commission and a sportsmen's and business leader in his state.

"For each of the last 10 years, our State Services Division has monitored over 100 bills annually in the states that would adversely impact sportsmen," says Tom Addis, director of state services for The Wildlife Legislative Fund of America.

Addis' statement underscores the importance of the WLFA state services division's work to the protection of hunting, fishing and trapping. Each year, anti-hunters have dozens of opportunities to put the sportsman out of business.

Only through vigilance and considerable savvy in the legislative process is the WLFA able to head off the tide of animal rights activity in the states.

Clearly, the states are "where the action is" for sportsmen's issues. Each year, several states become hotbeds of anti-hunting and anti-trapping activity and the WLFA's lobbyists, lawyers and media experts are forced to swing into action.

Following is a brief summary of a few of the notable issues in which the state services division has been involved over the past decade.

The WLFA state services operation's activities are based on many of the lessons learned in the 1977 ballot issue campaign which challenged trapping in Ohio.

"That campaign taught us the importance of building coalitions of all affected interests," said Addis, who was deeply involved in the Ohio campaign. "There is tremendous strength in numbers. The trappers were not capable of winning alone—they needed the help of others and they got it from hunters, fishermen, farmers, labor, wildlife professionals, public health agencies, church groups and others who would be adversely, if not directly, affected."

Immediately following incorporation of the WLFA in 1978, the WLFA's activity in the 50 states began in earnest.

By mid-1979, the WLFA reported to members that it had been involved in legislative issues in 24

states since the first of the year. The WLFA's involvement had made the difference for sportsmen in Georgia, Connecticut, New Jersey, New York, Massachusetts, California and many other states less than a year after its establishment.

The year 1979 was a busy one for the WLFA's state services operation. It helped defeat a bill in Illinois to ban hunting in all state parks, another to ban the use of dogs in hunting in Texas and anti-trap measures in Georgia and New Jersey, among others.

In 1980, the WLFA sent its state services operation into Connecticut to organize a large-scale campaign to defeat anti-trapping bills that were gaining steam at a furious rate.

"Our backs were up against a wall," said lobbyist Bob Crook, executive director of the Connecticut Sportsmen's Alliance. "We could not have defeated the legislation without the work of the WLFA and the coalition of affected interests that it helped us to build."

In 1980, the WLFA was involved in two ballot issue campaigns simultaneously. Anti-hunters had succeeded in getting measures on the ballot in South Dakota to ban dove hunting and in Oregon to ban trapping. The state services division of WLFA swung into action, producing voluminous campaign plans, organizing grass roots sportsmen and other affected interests, raising the lion's share of the money needed for both campaigns, and producing the TV, radio and print media advertisements.

In a replay of the events leading to the 1977 Ohio victory, both campaigns paid off and sportsmen walked off with whopping 2-1 margins of victory, despite pre-election surveys that forecast losses.

The WLFA had arrived by 1981 as the most formidable opponent of the anti-hunting forces in America. Sportsmen leaders nationally were coming to call on WLFA for assistance whenever their rights were threatened in the states, and the animal rights organizations were

continued on page 5

## Congratulations pour in for WLFA Anniversary

Speaker of the U.S. House of Representatives.

Secretary of the Interior Don Hodel, a staunch supporter of WLFA's Protect What's Right program, wrote, "Your organizations' many contributions are recognized by sportsmen and wildlife professionals everywhere. They are also appreciated here at the U.S. Department of the Interior."

Others writing to congratulate the WLFA on ten years of service to sportsmen included Ducks Unlimited Chairman Peter H. Coors, also a WLFA Board member, as well as DU's president, Hazard Campbell and Matt Connolly, executive vice president.

Outdoor Life Editor Clare Conley and National Rifle Association Executive Vice President J. Warren Cassidy sent letters of congratulations, as did Elliot Lippin of the American Fur Industry.

Other organizational heads extending their congratulations included the executive heads of the International Association of Fish and Wildlife Agencies, Outdoor Writers Association of America, Shikar-Safari Club International, The National Wild Turkey Federation, The Ruffed Grouse Society, Fur Takers of America and the National Trappers Association.

The list also included the head

people at the American Archery Council, National Shooting Sports Foundation, Boone and Crockett Club, Wildlife Management Institute and The North American Hunting Club.

"For ten years, The Wildlife Legislative Fund of America has led the charge in this country for the protection and advancement of sportsmen's rights," said WLFA Vice President for Programs and Public Relations Rick Story at the recent WLFA Board meeting.

"Our track record is widely heralded and we enjoy the respect of sportsmen, wildlife professionals and government leaders throughout the nation."

# Leading Americans, Sportsmen Comprise WLFA Board

The Board of Directors of The Wildlife Legislative Fund of America represents not only leaders of the conservation community but also some very prominent leaders in our nation.

"We are very pleased with the extraordinary people we have on our board," said WLFA President James H. Glass. "We hope the organization has made them as proud of us as we are of them."



**Daniel M. Galbreath**, the WLFA Chairman, is a world leader in real estate development, leasing and management. He is the former owner of the Pittsburgh Pirates and a breeder of thoroughbred racehorses. A dedicated sportsman, he is involved in many wildlife conservation causes.

**Peter H. Coors** is WLFA's newest Board member and former national president and current board chair-

man of Ducks Unlimited. He is president of the Brewing Division of Adolph Coors Company and an active sportsman-conservationist.



**Mrs. Gilbert W. Humphrey** has served as WLFA's Treasurer since 1981 and is an original member of the Board. She serves on the Florida Game and Freshwater Fish Commission. She is a civic leader in four states and this distinguished shooter and rider is the first woman president of New York's Metropolitan Opera.

**Henry Foner** has been a leader in the American labor movement for more than 30 years. He has been president of the Joint Board, Fur Leather and Machine Workers Union, United Food and Commercial Workers, AFL-CIO.



**Dr. Vincent W. Shiel**, WLFA's Vice Chairman, is a leading figure in the sporting goods industry. This dedicated sportsman has played significant leadership roles in hunting campaigns nationwide.

**James W. Goodrich** is Secretary and Senior Vice President of WLFA. An original member of the WLFA staff, Goodrich is a public relations, political and lobbying expert with special experience in sportsmen's legislative and ballot campaigns.

**Ben Hardaway, III**, past president of The Masters of Foxhounds Association of America, is an international sportsman and conservationist. He operates a Georgia construction firm that specializes in major projects such as dams, bridges and highways worldwide.

what you're doing. We will make the decisions regarding management of bobcats."

The danger was that if courts could make such decisions regarding bobcats, they could do the same for virtually any species—deer, bear, squirrels, waterfowl or wall-eyes! For a time, hunting, fishing and trapping were on dangerous ground due to the legal precedent that the decision created.

The National Affairs Office mounted a campaign that for the first time established sportsmen as a powerful lobby in defense of their rights on Capitol Hill. Thousands of sportsmen's groups, nationally, participated in the campaign for a series of pro-hunting amendments to the federal Endangered Species Act, one of which negated the decision of the "bobcat suit."

The Common Sense Amendments to the Endangered Species Act cleared both houses of Congress within weeks of introduction and the WLFA and its associated organizations had logged an historic victory in the nation's Capitol.

The WLFA has led the charge to defeat anti-trapping legislation in Washington, through the efforts of the National Affairs Office. In 1984, anti-hunters were successful in obtaining a hearing for a House of Representatives anti-trap bill. In the wake of the hearing, pressure applied to a key Congressman resulted in the bill being stopped in its tracks for the duration of the Congress.

The following year, when a new Congress convened, another anti-trap bill entered the hopper. Its sponsor backed off on pushing for the bill after being contacted by a WLFA ally to whom he was closely tied. The bill received no hearing and died silently.

The National Affairs Office has been deeply involved in several international issues regarding sportsmen and wildlife. One of these is the WLFA's involvement as a non-governmental participant in the Convention on International Trade in Endangered Species (CITES). CITES is a 90-member nation body which regulates trade in Endangered Species worldwide. Anti-hunting organizations have worked to use the treaty as a legal

hammer to knock out valid uses of abundant wildlife species. Until 1985, the anti-hunters were enjoying great success.

However, that year the WLFA participated in the biannual meeting of the party nations along with other pro-hunting interests from throughout the world. A proposal was coming before the delegates asking CITES to endorse the establishment of a new international body that intended to push for a worldwide ban on hunting and trapping.

The WLFA's national affairs director, Carol Porter, working with top people at the Canadian Wildlife Federation, European and South American pro-conservation groups, mounted a lobbying effort which influenced the delegates to defeat the measure.

At the 1987 meeting of the CITES parties, the anti-hunters won no important sanctions against sportsmen.

Porter had helped to establish a formal committee of interests from throughout the world that would be adversely affected by the animal rightists. They lobbied the delegates in a methodical, professional way and defeated the anti-hunters soundly.

The National Affairs Office has been deeply involved in many issues relating to waterfowl and wetlands conservation, as well as its work in defeating the animal rights movement. Measures to improve funding for wetlands acquisition and maintenance, like the Emergency Wetlands Resources Act and the

"Our dwindling wetlands are a top concern of sportsmen conservationists everywhere," said WLFA President Jim Glass. "As such, we assign this issue high priority and will continue to do our part to ensure a bright future for waterfowl on this continent."

Protection of hunting on public lands is another top priority of the National Affairs office.

"Every time a new parcel of land is proposed to be added to the National Park System's recreational lands, which have historically allowed hunting, we have to take a long, hard look," said Porter. "Regulations of the Park Service, which has grown more biased against hunting in recent years, permit it to ban hunting on any lands for which enabling legislation does not permit it.

"Our job is clear," she added. "We have to fight to make certain that hunting is permitted wherever the land can support it."

Right now the WLFA's National Affairs Office is gearing up for what may turn out to be a major fight over hunting on the National Wildlife Refuges. The Humane Society of the United States recently dropped its suit calling for a ban on hunting in the refuges.

"They may have seen the light—that they stood little chance of winning in court because the law clearly permitted hunting on the refuges," said Porter. "Their next step would logically be to change the law."

Porter said that she expects the anti-hunters to get behind H.R.

WLFA National Affairs Director Carol Porter (center) represented sportsmen's interests at the meeting of the Convention on International Trade in Endangered Species.



North American Waterfowl Management Plan, are just two examples of the work that the National Affairs Office has done on behalf of waterfowl. (see story p. 9)

2724, introduced by Rep. Bill Green (R-NY) and subsequent anti-hunting-on-refuges legislation likely to be introduced in the next Congress.

trapping bans, especially when animal rights groups bring significant political pressure to bear on local politicians.

The State Services staff has worked with local sportsmen in dozens of communities nationwide in defeating proposed local closures of outdoor sports. From Yarmouth, MA to Las Vegas, NV, the WLFA's help has made the difference for sportsmen fighting "local option" attempts.

Likewise, when local jurisdictions enact anti-trapping and anti-hunting bans in violation of state law, the WLFA State Services Division and Legal Department team up to provide legal counsel. Sportsmen in New York, Mississippi, California and many other states have benefitted from the WLFA's work in

this area.

As 1988 continues, the state services division is deeply engaged in several key issues for sportsmen. One is the rash of legislation nationally that would ban the use of dogs in hunting. Another key fight is being waged in Florida over the National Park Service's plan to restrict hunting at the Big Cypress National Preserve, in conflict with the Park Service's long-standing management agreement with the Florida Game and Freshwater Fish Commission. The state wildlife agency is strongly in favor of continuing hunting at the Preserve.

The WLFA's State Services Division is now planning a major effort to take the offense for sportsmen in several states who may not hunt on

Sunday due to state law. The WLFA was deeply involved in a 1987 issue in Ohio which served as a "test" for its national effort. It was able to secure legislative approval of a bill to initiate Sunday hunting for groundhogs, waterfowl and fox. Maryland has recently approved Sunday hunting on non-commercial shooting preserves and Massachusetts is growing closer to passage of legislation to permit Sunday waterfowl hunting in certain coastal areas.

The WLFA'S State Services Division is the sportsman's principal lobby in states throughout the nation. It will continue its history of successes for sportsmen in the face of the growing anti-hunting movement.

## WLFA National Affairs Office



## Represents Sportsmen in Nation's Capitol

The Wildlife Legislative Fund of America's National Affairs Office is the sportsman's essential lobbyist in Washington, DC. Through its efforts, the WLFA is known on Capitol Hill and throughout the federal regulatory agencies as the principal advocate of sportsmen's rights and the principal adversary of the animal rights lobby.

The National Affairs Office has amassed an impressive string of victories in Washington and has earned a solid reputation as an effective and steadfast supporter of sportsmen and wildlife management.

The National Affairs Office was established in 1980. Among its initial efforts was lobbying for pro-hunting amendments to the Alaska

Lands Act which was passed in that year. The WLFA has always been in favor of increasing outdoor opportunities in Alaska by opening hunting on some of the lands closed down by the Alaska Lands Act and, at the same time, it has been concerned with maintaining the integrity of the National Park System. In 1983, it lobbied for amendments to open 12 million acres of the lands closed to hunting by redesignating them as Park Preserves, preserving the integrity of the Parks, but permitting hunting. It will continue to work for sportsmen's rights in Alaska as opportunities present themselves.

Another issue in which the National Affairs Office staff was

deeply involved was the infamous federal court decision in the "bobcat suit" and the resultant massive lobbying campaign mounted to negate the potentially disastrous effects of the decision.

The anti-hunting organization, Defenders of Wildlife, sued the U.S. Fish and Wildlife Service, ostensibly to halt the export of bobcat pelts, whose trade is tightly regulated by international treaty. When the case got to the federal appeals court, a ruling resulted which cast aside the findings of professional wildlife biologists and halted the export of bobcats for the 1980-1981 season.

In essence, the court said, "Wildlife managers, you don't know

## WLFA State Service Division defends Sportsmen Nationwide



Animal rights protest organizations have targeted the WLFA as Public Enemy Number One.

consistently targeting WLFA as their principal enemy.

In 1981, the Maine legislature enacted L.D. 300, which provided for an experimental moose hunting season, the first step in opening moose hunting following a 50-year closure. The WLFA worked with that state's principal sportsmen's lobby, The Sportsmen's Alliance of Maine, to get the law passed.

Anti-hunters immediately went to work to get on the November, 1983 ballot and block the moose hunt.

The WLFA was called in by the sportsmen and prepared an extensive campaign plan lining out grass roots, media relations, fundraising and paid advertising programs to ensure the hunters' success.

The WLFA produced campaign literature and press materials. It helped to select the voter survey and advertising firms and conducted a week-long media tour to ensure positive media coverage for the sportsmen's cause.

On election day, the voters of Maine turned in a resounding endorsement of moose hunting. The WLFA's campaign had paid off once more for the sportsmen and wildlife managers.

The WLFA has been involved in many dozens of legislative lobbying campaigns in the states. One campaign occurred in 1981, when the WLFA lobbied the Governor of Florida's cabinet which had jurisdiction over whether deer hunting would occur at the state's Tosa-hatchee Park Preserve. Weeks of lobbying by the WLFA's representative paid off when the cabinet authorized hunting at the refuge.

In early 1982, the WLFA launched its national effort to secure laws to ban the harassment of hunters, fishermen and trappers in the field by animal rights activists. A model bill, drafted by WLFA's General Counsel, was circulated to wildlife agencies and major sportsmen's groups. To date, 27 states have passed anti-harassment laws based on the WLFA model.

In 1983, the WLFA was involved in a major campaign in Texas which sought to overturn that state's long-standing system of county-by-county game management. The Wildlife Conservation Act of 1983 gave the state wildlife management agency full authority to set seasons, bag limits and other regulations for the entire state, rather than leave these decisions to state and local politicians.

For at least 50 years, Texas sportsmen had tried to bring common sense to Texas' programs of wildlife management. The WLFA-designed campaign lasted less than three months; the "act" was introduced in January and signed by the Governor in early April, 1983. For the first time, Texas had the ability to conduct truly scientific programs of wildlife management.

As a result of the animal rightists' belief that trapping is the sportsmen's Achilles' heel, many of the WLFA's involvements in the states have focused on defeating anti-trapping bills. An example of the kind of work that the state services operation mounts occurred in Illinois in 1985 and again in 1986, where anti-trap bills were moving. In both

cases, WLFA State Services Director Tom Addis moved into the state and formed coalitions of interests that would be adversely affected by a ban on trapping. The participants included lobbyists for organized labor and the state retail merchants association, among others. On one occasion, contacts with then-Chicago Mayor Harold Washington enabled the WLFA's pro-trapping coalition to deliver the pro-trapping votes of the black caucus and secure a favorable outcome.

This is the kind of coalition that has formed the backbone of all of the WLFA state services division's successes. It has paid off time and again in Connecticut, California, Georgia and dozens of other states.

In early 1988, New Hampshire anti-hunters backed a bill to ban the state's new moose hunting season, scheduled for Autumn, 1988. A sizeable campaign conducted by various in-state and national anti-hunting groups painted a grim picture for the future of moose hunting in the state.

New Hampshire Wildlife Federation Executive Director Ellen Rice contacted the WLFA State Services Division for assistance.

"The WLFA came thundering to our rescue," said Rice in the wake of the 231-91 sportsmen's victory in the New Hampshire House of Representatives.

The WLFA had devised the Federation's and its allies' successful lobbying plan and accomplished a mailing to every member of the New Hampshire House, illuminating the facts on moose hunting and the role it is designed to play in the management of the state's moose population.

Rice said that the WLFA was of "tremendous help" in securing a favorable outcome for sportsmen.

When local, municipal and county governments attempt to ban hunting or trapping, the WLFA State Services Division swings into action. Increasingly, animal rights groups pressure town and county governments to ban outdoor sports. These bans are almost always in violation of state laws which reserve the right to permit or ban hunting, trapping or fishing for the sole authority of the state. However, that does not always dissuade local governments from enacting hunting and

# WLFA Legal Activity Vital to America's Sportsmen

The Wildlife Legislative Fund of America has been actively and effectively involved in the legal defense of sportsmen's rights over the past decade.

In 1981, WLFA President Jim Glass predicted that the battlefield for sportsmen's rights would be shifting to the courts. Time has proven him correct.

Our involvements in legal fights have been many and varied. Following is a sampling of some of the key issues in which we've been involved.

In 1982, the WLFA's attorneys came to the aid of the U.S. Fish and Wildlife Service and the United States Department of Justice when the anti-hunting group, The Humane Society of the United States (HSUS) and others filed suit to stop the hunting of black ducks, whose numbers have been declining due to factors other than hunting.

Not surprisingly, in the second round of pleadings, HSUS asked the court for a ruling to force the Secretary of the Interior to close hunting for any waterfowl species whenever its numbers dipped for any reason, including normal, cyclical population fluctuations. This was unacceptable to waterfowl biologists.

The final ruling, which our side won, was important because it underlined the principle that a court will not second-guess the biologists' expertise when their agency, in this case the U.S. Fish and Wildlife Service, has not acted contrary to law.

The WLFA became involved in a case early in this decade in which Alaska sportsmen (through the auspices of the principal sportsmen's group in the state) sued the federal government to stop spring taking by "subsistence hunters" of four species of geese, as well as their eggs, in the Y-K Delta. The geese populations had dwindled to precariously low levels due to this practice.

The WLFA and the Alaska sportsmen believed that, by permitting the spring taking of these waterfowl, the federal government was in violation of the U.S.-Canada Migratory Bird Treaty.

In 1987, after several years of litigation, the U.S. Court of Appeals

overruled a lower court, deciding that the taking of the geese during spring was not permitted by law. The case has now gone back to the U.S. District Court for further action.

The WLFA will stay in the suit until its resolution. We oppose governmental attempts to permit the "traditional" taking of waterfowl out of season and taking of eggs from nests under a "subsistence" rationale—particularly at the expense of waterfowl resources.

The most far-reaching case in which the WLFA has been involved is the suit brought by HSUS against the Department of the Interior to stop hunting on the National Wildlife Refuge System.



WLFA General Counsel James R. Hanson

A number of pro-sportsman groups sought to intervene in the suit.

The WLFA was selected by the U.S. District Court for the District of Columbia to represent the nation's hunters in the case.

"In light of the scope and complexity of plaintiff's challenge, the court deems it appropriate that the interests of the hunters also be directly represented," said Judge Thomas Flannery. "For this purpose, the WLFA has demonstrated its willingness and ability to contribute to the full development of the factual and legal issues presented."

We deemed it vital to be involved in this case because of the great impact a negative decision would have on the future of hunting in America. Not only do the refuges host hundreds of thousands of hunter visits annually, providing

millions of acres of hunting lands and countless hours of recreation for sportsmen, a decision in favor of the anti-hunters would establish dangerous legal precedent that could lead the way for closure of hunting on other categories of public lands—National Forests, BLM lands and even state-owned conservation lands.

The District Court initially threw out the Humane Society's case, stating that it had no cause to sue since its purposes had nothing to do with deciding proper recreational uses of public lands. However, HSUS appealed the ruling and won the right to go back to the District Court to argue the merits of the case against hunting on the Refuges.

In early summer, 1988, the Humane Society asked the court for permission to drop its case. We see this as a major victory, but fully expect more trouble from anti-hunters on the question of hunting on the refuges and other public lands.

Cases regarding trapping have figured prominently in the WLFA's legal work. Our attorneys were involved in a New York suit brought by the Animal Legal Defense Fund, HSUS, Animal Welfare Institute, Defenders of Wildlife and other anti-trapping organizations. They attempted to use the state's anti-animal cruelty law to outlaw trapping and, by implication, hunting throughout New York. Every state has similar anti-cruelty laws so the animal rights groups were immensely interested in the New York case. We were party defendants in the case, along with the New York State Trappers Association and other pro-trap groups, and the New York Department of Environmental Conservation.

We won the suit, thanks to a ruling that the state fish and game laws, which provide for regulated trapping and hunting, took precedence in this case.

Right now, the WLFA is involved in a Massachusetts case in which a trapper has been arrested for using padded jaw traps on land. We maintain that the padded trap used by the trapper is legal in the state

## WLFA Legal Activity Vital to America's Sportsmen

because it is distinctly different than the "steel-jawed leghold traps" banned by the Massachusetts legislature for use on land in the 1970's.

We won a favorable ruling in a lower court, but the wildlife agency has appealed the ruling. Recently, the state Supreme Court extraordinarily, on its own motion, removed the case from the Court of Appeals and brought it directly to the docket of the high court. It now

awaits oral argument.

The WLFA was a defendant in a case brought by anti-trappers in Oregon. Following the 1980 Oregon election issue which attempted to ban trapping (our side won 2-1 behind a WLFA-directed campaign), anti-trappers sued the WLFA claiming that we had misrepresented the facts. After a two-week trial, the jury found in our favor. The anti-trappers appealed

the ruling, then asked to drop the suit. The WLFA agreed to permit them to back out of the case, but only after they paid our court costs and attorney fees.

The courts continue, and will continue, to be fertile grounds for the anti-hunters' actions. The WLFA is prepared to meet this threat and continue its representation of America's sportsmen in this legal process.

## WLFA Defends Duck Hunting, Waterfowl Habitat Through its History

The major crisis facing sportsmen conservationists and wildlife today is the depletion of wetland habitat, vital to waterfowl and countless other wildlife species. A principal challenge facing hunters is the persistent attack on waterfowl hunting, a chief target of the animal rights movement.

The WLFA throughout its history has taken as a high priority the protection of waterfowl and waterfowling. The WLFA will continue this defense and continue to assign high priority to waterfowl hunters and wetlands.

Among the issues in which WLFA has defended duck hunters are several legal actions and lobbying fights.

The "black duck suit" of 1984 threatened hunting of black ducks and all waterfowl. The WLFA became involved to represent duck hunters. Our lawyers helped to successfully argue the case and we won an important decision against the anti-hunters.

In the suit to block hunting on the National Wildlife Refuges, a huge number of which provide the nation's finest waterfowling, the WLFA intervened to make certain that all hunters, and particularly duck hunters, did not lose access to these areas. After four years in litigation, we were victorious.

Waterfowl hunters are, of all groups of sportsmen, sitting ducks themselves when it comes to physical harassment by animal rights activists. The WLFA's campaign to enact laws specifically to prohibit

the harassment of sportsmen in the field was developed with the interests of waterfowlers in mind. To date,

27 states have enacted laws based on the WLFA model that prohibit harassment of waterfowlers, other hunters, trappers and fishermen.

When local jurisdictions have attempted to ban duck hunting, the WLFA has helped local sportsmen mount lobbying drives to defeat the anti-hunting proposals. These have occurred in Yarmouth, Mass. and Sandusky, Ohio. When the Virginia legislature attempted to ban hunting on the Potomac River, WLFA was on the side of Virginia duck hunters to help defeat the ban.

When the federal government issued its notice that it intended to curtail its five-year study on the effects of stabilized waterfowl hunting regulations, the WLFA joined Ducks Unlimited, The Izaak Walton League, NRA and National Wildlife Federation in opposition. The study was not discontinued.

The WLFA took the offense in 1988 and was able to open Sunday hunting of waterfowl in Ohio, the only state in the Mississippi Flyway that did not permit sportsmen to hunt ducks and geese on Sunday.

A top concern of the WLFA, from its earliest days, has been the conservation of waterfowl habitat and resources.



One of the WLFA's earliest issues was its successful effort to block passage of a protocol amendment to the Migratory Bird Treaty with Canada that would have allowed commercial exploitation of waterfowl.

From 1983 through 1986, the WLFA was deeply involved in the campaign for the Emergency Wetlands Resources Act, to provide an additional \$100 million annually for wetlands acquisition and maintenance. Currently, the WLFA's leading issue is the effort to fund the North American Waterfowl Management Plan, a program hailed as the best hope for the future of ducks and geese on the continent.

The WLFA was involved in the lawsuit in federal court in Alaska which sought to stop the springtime taking of ducks and geese, as well as their eggs. This practice, which the Fish and Wildlife Service approved for "subsistence" takers, has decimated four species of geese which nest on the Y-K Delta. Our suit was successful and the springtime taking of waterfowl is no longer approved by the Fish and Wildlife Service.

These are just a few examples of the WLFA's work on behalf of ducks and duck hunters. As the challenges to waterfowlers continue, the WLFA vows its support for the resource and sportsmen.

# State of Louisiana



DEPARTMENT OF WILDLIFE AND FISHERIES

VIRGINIA VAN SICKLE  
SECRETARY

September 1, 1988

BUDDY ROEMER  
GOVERNOR

## COASTAL & MARINE RESOURCES SURVEY SECTION 03 - 04 ACTIVITY REPORT

From August 1, 1988 thru September 1, 1988

During this period field activity consisted of:

188 Surveys that were scheduled.  
68 Surveys that were unable to be done due to bad weather  
or fishermen unable to meet surveyor.

Surveys that were completed consisted of:

62 Leases that were tied into the monument control system.  
6 Applications for new area.  
45 15-year limitations.  
1 Restake applications.

Total field activity:

<u>1986</u>	<u>1987</u>	<u>1988</u>	
<u>1156</u>	<u>953</u>	<u>1062</u>	- Surveys scheduled.
<u>879</u>	<u>549</u>	<u>666</u>	- Surveys performed.
<u>254</u>	<u>403</u>	<u>380</u>	- Surveys unable to be done due to bad weather or fishermen unable to meet surveyor.
<u>2</u>	<u>0</u>	<u>0</u>	- Survey where fishermen refused to survey.
<u>0</u>	<u>2</u>	<u>2</u>	- Disputes settled.
<u>18</u>	<u>1</u>	<u>16</u>	- No shows.
<u>2</u>	<u>0</u>	<u>2</u>	- Applications cancelled by request.

Office activity during this period:

\$1,472.92 - Lease rental collected.  
110.00 - Survey fees collected.  
2 - Applications filed.  
244 - New leases issued.  
15 - Surveys - Private Surveyor  
73 - Surveys - Private Surveyor, 1988



LOUISIANA ARTIFICIAL REEF PLAN

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Technical Bulletin No. 41

produced by

The Louisiana Sea Grant College Program

November 1987



**LOUISIANA  
SEA GRANT**

College Program  
Center for Wetland Resources  
Louisiana State University  
Baton Rouge, LA 70803-7507

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**This publication was produced by the Louisiana Sea Grant College Program, a part of the National Sea Grant College Program maintained by NOAA, U.S. Department of Commerce, and by the state of Louisiana.**

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## EXECUTIVE SUMMARY

The development of the oil and gas industry in the Gulf of Mexico resulted in the creation of this country's most extensive artificial reef system. Over 90% of the 4,000 mineral mining structures in the United States coastal waters are located off Louisiana's coastline. Since the first platform went into place in 1947, fishermen of Louisiana and bordering states have recognized the fishing value associated with this industry, and such structures are currently the destination of over 75% of all recreational fishing trips originating in Louisiana. For over 40 years, Louisiana fishermen have benefited from the increased biological activity associated with this unintentional artificial reef habitat.

Since these platforms are so commonplace off the Louisiana coast, many citizens and management groups believe that they are permanent and will always be available for fishing. This is, however, not the case. Already, 470 structures are estimated to have been removed from coastal Louisiana, and by the year 2000, over 40% of the remaining oil and gas structures in the Gulf of Mexico could be removed. This would represent a major loss to Louisiana fishermen.

It was, therefore, imperative that Louisiana recognize this potential loss of habitat and plan to offset it by either creating new artificial reefs or preserving existing structures. Many U.S. states and Japan already have artificial reef programs. Louisiana can profit from the mistakes and successes of these other programs and build what could become one of the largest artificial reef programs in the United States.

The National Fishing Enhancement Act of 1984 (Public Law 98-623) established national standards for the development of artificial reefs, called for the creation of a national artificial reef plan, and established guidelines for creating artificial reefs in state and federal waters. In response to this federal act, the Louisiana Artificial Reef Initiative (LARI) combined the talents of university, state, federal, and industry representatives to develop an artificial reef program for Louisiana. As a result of their efforts, the Louisiana Fishing Enhancement Act (Act 100) became law during the 1986 regular legislative session. The Louisiana Artificial Reef Plan, mandated by Act 100 and prepared under the guidance of LARI, outlines steps for implementing the legislation that created the Louisiana Artificial Reef Program in 1986.

The Louisiana Artificial Reef Plan contains the rationale and guidelines for implementation and maintenance of a state artificial reef program. Intended to serve as a flexible working document, it will be periodically updated through the Louisiana Artificial Reef Council on the basis of the results of operation. The Artificial Reef Council consists of the Secretary of Wildlife and Fisheries, who is responsible for administration of the program, along with the Dean of the Center for Wetland Resources, and the Director of the Louisiana Geological Survey at LSU, which provides technical support.

Following a lengthy process of site selection described in the plan, the Council approved seven artificial reef planning areas off the Louisiana coast. These seven areas were presented at public hearings in Chalmette, Houma, and Lake Charles and then discussed with representatives of the shrimping industry in Lafitte and Galliano. To accommodate the user

groups' preferences, the Council added an eighth area and slightly modified the locations of two others. The eight areas will be used in Phase I of Louisiana's Artificial Reef Program.

Permitting guidelines for artificial reefs are outlined in the National Artificial Reef Plan and summarized in this state plan. The U.S. Army Corps of Engineers is the primary agency permitting the establishment of artificial reefs. The state must file an application with the Corps, who will then notify other federal and state agencies about the application. In addition to filing for a Corps permit, the state must also acquire a permit from the U.S. Coast Guard authorizing the use of aids to navigation. Depending on the location and depth of water, different types and sizes of buoys are required. As part of the state permitting process, the Coastal Management Division of the Louisiana Department of Natural Resources will review artificial reef permit applications to determine their consistency with the state plan.

The state plan has been approved by the Louisiana Senate and House Natural Resources Committees and will be implemented under the leadership of the Louisiana Department of Wildlife and Fisheries.

Materials for use as artificial reefs will be accepted and their placement within reef planning areas determined on a case-by-case basis by the consensus of the Louisiana Artificial Reef Council. Artificial reef complexes will be established within each reef planning area on the basis of the best available information regarding bottom type, currents, bathymetry, and other factors affecting performance and productivity of the reefs. Precise design and location of the reef complex will also depend upon the physical dimensions of the donated materials.

Pursuant to the Louisiana Fishing Enhancement Act, three entities are the primary participants in the Louisiana Artificial Reef program: the Louisiana Department of Wildlife and Fisheries, the Louisiana Geological Survey, and the Center for Wetland Resources at Louisiana State University. As stated in the Louisiana Fishing Enhancement Act, the Department of Wildlife and Fisheries will administer and enforce the program. The Department will plan and review permit applications with the advice of the Center for Wetland Resources and the Louisiana Geological Survey. The Department will also oversee the maintenance and placement requirements of artificial reefs and develop additional technical information needed to carry out the program. In addition, the Department will be responsible for promoting public awareness of the program by cooperating with sportsman's groups and the media, publishing reef maps, and conducting other public-information activities.

The Louisiana Geological Survey will provide geological and geotechnical support for siting reefs through evaluation and interpretation of available geologic data. This data will be used to identify geologic hazards and determine sediment type and suitability. The Survey will assist the Department by coordinating federal and state permitting procedures and other activities and will develop engineering criteria for the placement of artificial reefs in cooperation with the offshore operators or other parties donating the reef materials.

The Center for Wetland Resources at Louisiana State University will provide technical support to the Department for program development. The Center shall prepare, update, and provide the Department with technical, biological, and operational criteria for site selection and development

and assist the Department in preparing permit applications for artificial reefs. The Center will develop a biological monitoring program to help evaluate existing artificial reefs and improve them for future development. In addition, the Center will evaluate reef potential and design and update exclusion mapping as necessary.

Louisiana is in the enviable position of having over 3,500 artificial reefs adjacent to its coastline. Through the implementation of this plan, Louisiana can maintain a portion of this valuable fisheries habitat for future generations.

## LIST OF ABBREVIATIONS USED

COE	U.S. Army Corps of Engineers
CWR	Center for Wetland Resources, Louisiana State University
DNR	Louisiana Department of Natural Resources
EPA	U.S. Environmental Protection Agency
LARI	Louisiana Artificial Reef Initiative
LDWF	Louisiana Department of Wildlife and Fisheries
LGS	Louisiana Geological Survey, Louisiana State University
LSU	Louisiana State University
MMS	Minerals Management Services
NFEA	National Fishing Enhancement Act
NGDC	National Geophysical Data Center
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NPDES	National Pollution Discharge and Eliminations System
NPS	National Park Service
OCS	Federal Outer Continental Shelf
USFWS	U.S. Fish and Wildlife Service

## OVERVIEW

### Introduction

Commercial and recreational fishermen of Louisiana and bordering states have long recognized the fishing value of oil and gas production platforms. By late 1983, 4,056 such platforms were located in the state and federal waters of the Gulf of Mexico, and over 90% of these were off Louisiana. Over the past 40 years, Louisiana's citizens have benefited financially from this offshore industry and enjoyed and profited from the increased biological activity associated with oil rigs (Claverie 1982; National Research Council 1985).

Soon after the first production platforms were installed off Louisiana in the late 1930s, fishermen noticed that they attracted fishery resources. Currently, oil and gas structures are estimated to be the destination of up to 75% of all fishing trips off Louisiana. Commercial shrimpers and hook-and-line fishermen report higher catches near structures, and sport divers also enjoy the resources associated with this habitat (Byrd 1983; Caldwell 1982; Dimitroff 1982; Dugas et al. 1979; Horst and Mialjevich 1985; Roberts and Thompson 1983; U.S. Dept. Commerce 1980).

Since these platforms are so commonplace in coastal Louisiana, many citizens and management groups believe that they are "permanent" and will always be available for fishing. This is, however, not the case. Already, 470 structures are estimated to have disappeared from Louisiana's coast, and by the year 2000, 40% (1,625) of the oil and gas structures in the Gulf of Mexico will have been removed (Lee 1985). Unfortunately, the most popular fishing platforms, those within 25 miles of shore, are where the oil and gas fields are being rapidly depleted and have the shortest remaining life expectancies. Of the 1,625 structures scheduled

for removal, 1,500 are in water depths of less than 100 feet (Collier 1984; Ditton and Graefe 1978; Lee 1985; National Research Council 1985).

It was, therefore; imperative that Louisiana recognize this potential loss and plan to offset it either by creating new artificial reef habitats or by preserving those that already exist. Proper investment in resource management is crucial to maintaining and improving the economic contributions of fisheries associated with these structures. For these reasons, the Louisiana Artificial Reef Initiative (LARI) (Appendix I), consisting of university, state, federal, and industry representatives, was formed in 1985 to develop an artificial reef program for Louisiana.

This document, prepared under the guidance of LARI, sets forth a plan for implementing the legislation that created the Louisiana Artificial Reef Program in 1986.

### Other Artificial Reef Programs

#### U.S. Programs

Since 1979, various state, federal, and private groups have documented how offshore oil and gas platforms have positively affected recreational and commercial fishing and scuba diving. The Minerals Management Service (MMS), Sea Grant College Program, and various state agencies throughout the United States have gathered information on user groups, fishing value and incidental benefits, and legal, economic, and technical aspects of artificial reef development (Aska 1981; Barrett 1984a; Bertrand 1984; Bohnsack and Sutherland 1985; Bockstail et al. 1985; Buckley et al. 1985; Colunga and Stone 1974; Ditton and Falk 1981; Lee 1985; Mottet 1982; Radonski 1983; Richards 1973; Roberts and Thompson 1983; Sport Fishing Institute 1980, 1985; Stanton et al. 1985; Stone 1982; Sullivan 1984).

On November 8, 1984, President Reagan signed Public Law 98-623, the National Fishing Enhancement Act of 1984 (NFEA). This act mandated the development of a national artificial reef plan (Appendix II). Introduced by Congressman John Breaux of Louisiana, this law's purpose is to "promote and facilitate responsible and effective efforts to establish artificial reefs in waters covered under this title." The NFEA mandates that the Secretary of Commerce and other support groups develop a long-term plan. Artificial reefs are "to be sighted and constructed and subsequently monitored and managed in a manner which will: enhance fisheries resources; facilitate access by both commercial and recreational fishermen; minimize conflicts among competing users; and, minimize environmental risks to personal health and property" (Section 203). In summary, the NFEA establishes national standards for the development of artificial reefs; calls for the creation of a national artificial reef plan under the leadership of the Department of Commerce, and provides for a government-coordinated, national permitting system for artificial reefs under the U.S. Army Corps of Engineers (COE). Particularly important to this program is Section 205 of the NFEA, which delineates and limits liability of the permittee and donors of materials used for artificial reefs.

In response to the NFEA, a national artificial reef plan was drafted, circulated for public review, and presented to Congress. The plan provides guidance for planning, siting, constructing, permitting, installing, monitoring, managing, and maintaining artificial reefs. It encourages states to become involved in planning and developing artificial reefs within and seaward of state jurisdictions. Although the national plan does not provide federal funding, it clearly supports and encourages the development of artificial reefs (Stone 1985).

Many coastal states already have well-developed artificial reef programs. These programs have used many different types of materials to create reefs, including rocks, cars, tires, trees, bridge rubble, boats, boxcars, and oil and gas structures. South Carolina, whose first documented artificial reef was initiated by a private individual in the early 1800s, has numerous state-supported artificial reefs both inshore and offshore. In 1973, South Carolina formally established an artificial reef program within the Recreational Fisheries Branch of the Department of Marine Resources, and the state has been the permittee for all subsequent structures (Aska 1981; Artificial Reef Development Center 1985; Barrett 1984; Schmied 1983; Sport Fishing Institute 1985).

Florida has developed an active program sponsored by state, county, and private organizations. Over 140 artificial reefs composed of a variety of available material have been established in state waters. Recently, the state and some local groups have expressed a willingness to acquire and help bear the expense of moving oil and gas structures, as they are retired, from the coast of Louisiana to Florida (Barrett 1984b; Bohnsack and Sutherland 1985; Stone 1979).

Alabama's artificial reef program began in 1953 as a cooperative program between state and private interests. Although the program lost momentum in 1979, it has since been revitalized. Alabama now has several liberty ships and at least one oil and gas structure located off its coast and is interested in obtaining additional oil and gas structures for future reefs. Alabama received an artificial reef permit for a 300-square-mile area in 1987. Mississippi, Alabama, and Texas together have another 25 permitted artificial reefs composed of various materials (Swingle 1985).

Between 1981 and 1983, Washington state allocated \$3.7 million for 14 artificial reefs and three new fishing piers. Washington's program continues to enjoy strong government support (Bohnsack and Sutherland 1985).

### Japanese Program

Japan has by far the most impressive artificial reef program, on which it spends millions of dollars per year. Japan's artificial reefs are designed for either aquaculture or commercial fishing. In most cases, the national government funds 50%-70% of the construction costs, and local prefecture or private groups fund the remainder. The Japanese develop different types of artificial reefs, depending on the species they wish to attract. They have made much of their information available to artificial reef proponents in the United States. Japanese experts consider oil and gas structures ideal reef materials very similar to the fabricated structures the Japanese spend a great deal of money to build (Bohnsack and Sutherland 1985; Mottet 1982; Sheehy and Vik 1982).

### Need for a Louisiana Artificial Reef Plan

Louisiana needs an artificial reef program and plan because

1. The inevitable removal of the oil and gas structures Louisiana fishermen presently utilize will result in the loss of recreational and commercial fishing opportunities.
2. Other states are willing to receive retired Louisiana structures.
3. User-group conflicts could increase if fishery habitat decreases.

4. The loss of existing oil and gas structures could lead to a reduction in current charter-boat operations, as well as potential tourism and coastal development opportunities.
5. Haphazard and uncoordinated siting of artificial reefs would seriously impact Louisiana's net fisheries and others to whom unmarked bottom obstructions would pose a hazard.

The National Research Council's recent study on disposition of oil and gas structures indicates that an average of 100 oil and gas platforms are scheduled for removal from U.S. waters each year for the next 15 years (Lee 1985). By the year 2000, approximately 40% of all existing structures offshore of Louisiana will become unproductive; under present MMS regulations, they must then be removed (Lee 1985; National Research Council 1985).

Loss of Louisiana's oil and gas structures could have several adverse consequences. These consequences could include a significant decrease in recreational and commercial fishing and thus a potentially negative economic impact on coastal communities. Fishermen might shift their efforts from offshore to the already stressed inshore fishery stocks, leading to greater competition and conflict between user groups.

Loss of existing oil and gas structures could also affect the charter-boat industry along the coast. Likewise, without a well-planned program for artificial reef development, the state will not share in potential increases in tourism and charter-boat fishing promoted by other states with artificial reef programs (Hardison 1982).

### Demonstration Projects

Several demonstration projects supported by the oil and gas industry have heightened interest in the use of oil and gas structures as artificial reefs:

- In 1980, Exxon towed a 2,200-ton submerged production system structure 300 miles from the Louisiana coast to a preselected site permitted by the Florida Department of Natural Resources.
- In 1982, a Tenneco structure was removed from the coast of Louisiana, towed 275 miles, and placed off of the coast of Pensacola, Florida, approximately 22 miles from the coastline (Bohnsack and Sutherland 1985; Ditton and Falk 1981; Frishman 1982).
- In 1983, Marathon Oil Company towed a 1,650-ton oil platform 220 miles from the coast of Louisiana to an artificial reef site 50 miles south-southeast of Mobile Bay off of Alabama. The Alabama Department of Conservation and Natural Resources was the permit recipient for this project.
- On October 2, 1985, two Tenneco structures were towed 920 miles from Louisiana to a site 1.5 miles off of Dade County, Florida.

#### Authority: The Louisiana Fishing Enhancement Act

The first step in providing authority for a Louisiana program was to enact enabling legislation. The Louisiana Fishing Enhancement Act (Act 100-1986), signed into law on June 25, 1986 (Appendix III), provides for the following:

1. Establishment and administration of the Louisiana Artificial Reef Development Program

2. Creation of the Louisiana Artificial Reef Council, consisting of the
  - Secretary, Louisiana Department of Wildlife and Fisheries (Chairman)
  - Dean, Center for Wetland Resources, Louisiana State University
  - Director, Louisiana Geological Survey
3. The roles of the Louisiana Department of Wildlife and Fisheries, the Center for Wetland Resources, the Louisiana Geological Survey, the Louisiana Sea Grant College Program, and the Louisiana Artificial Reef Initiative
4. Establishment of the Artificial Reef Development Fund to provide monies for program development, operation, and research
5. Development of the Louisiana Artificial Reef Development Plan and its legislative approval (this document)
6. Establishment of the state of Louisiana as the permittee for artificial reefs developed under the plan and appointment of the Louisiana Department of Wildlife and Fisheries as agent for the state
7. Relief of the state, donors, and other participants in the program from liability, provided the terms and conditions of the federal artificial reef permits are met

The Louisiana Artificial Reef Plan contains the rationale and procedures for the implementation and maintenance of the state artificial reef program. The plan is intended to serve as a flexible working document that will be periodically updated through the Council on the basis of the results of operation.

## SITE SELECTION

Proper development and implementation of an artificial reef program for Louisiana requires an understanding of the legal, technical, social, and economic aspects of developing and maintaining artificial reefs in state and federal waters off Louisiana.

Provisions of the plan are applicable to all territorial waters and the Exclusive Economic Zone (EEZ) off the coast of Louisiana to the international boundary. In effect, this area comprises the zone defined by extending the eastern and western boundaries of the state to the international boundary.

This plan provides guidance for artificial reef development in both state and federal waters. One intent of the plan is to help prevent haphazard construction of artificial reefs; all Louisiana artificial reefs should be developed consistent with this plan. To accomplish this, LARI delineated planning areas on the basis of a combination of exclusion mapping and site-selection screening described below. Any additional planning areas added in subsequent phases of the program will be selected through a similar process.

The Louisiana Artificial Reef Plan uses the following terms:

Reef planning area. Planners used exclusion and inclusion mapping to outline the perimeters of general areas within which artificial reefs will be located. Within a reef planning area will be located complexes composed of reef units.

Artificial reef complexes. An aggregation of artificial reef units planned and placed within an artificial reef planning area constitutes an artificial reef complex. The space left between artificial reef units and the sizes of artificial reef complexes

will be determined on a case-by-case basis. However, the area of an artificial reef complex generally will not exceed 0.75 mile on each side. If the side of a complex is limited to less than 0.75 mile, the Coast Guard will require only a single buoy in or near the center of the complex. The artificial reef complex will be the site designated in an artificial reef permit.

Artificial reef unit. A set of structures planned and placed at a specific site within an artificial reef complex constitutes an artificial reef unit. A permit application to the COE for an artificial reef site should include a description of several artificial reef units. It is anticipated that completed artificial reef units will be composed of five to six oil and gas structures.

The artificial reef plan for Louisiana includes three categories of reef development: (1) reefs for recreational fishing established within a 25-mile radius of the popular boat landings and facilities of Louisiana, (2) reefs to help promote and enhance recreational and commercial fishing and sport diving between 25 and 75 miles offshore in depths of 200-400 feet, and (3) reefs established to provide deep-water sanctuaries for important marine fishes.

#### Exclusion and Inclusion Mapping

The selection of the artificial reef planning areas identified for Phase I of the state program began with exclusion mapping efforts that eliminated areas in which reefs could not be established for a variety of reasons. Planners utilized a series of Gulfwide exclusion maps developed by the Sport Fishing Institute that provide information on population

centers, areas used as navigation fairways, and bottom type (Myatt and Ditton 1986). Personnel at Louisiana State University (LSU) developed more detailed maps showing the locations of fishing grounds, bottom obstructions, muddy areas, slide-prone areas, and present oil and gas exploration activities. Such areas include navigation fairways, trawlable bottoms traditionally used by the commercial fishing industry, pipeline corridors, restricted military zones, existing live bottom areas (e.g., coral reefs), and other areas that are unsuitable for reefs because of bottom type and hydrological conditions (Christian 1984a; D'Itri 1985; Myatt 1985; Sport Fishing Institute 1985; Swingle 1985). A collection of wall maps incorporating the results of exclusion mapping is available at the LSU Center for Wetland Resources.

#### Geologic and Engineering Criteria

Before obsolete oil and gas platforms and other "materials of opportunity" can be sited as artificial reefs offshore of Louisiana, natural (geologic) and man-made features must be identified and evaluated so that their possible impacts on the stability or function of artificial reefs can be assessed. Geologic and man-made features, commonly referred to as "hazards," are identified and assessed from data acquired through a variety of geophysical surveys that provide a comprehensive acoustical picture of the seafloor morphology and the underlying shallow stratigraphy and structure. The seafloor and subbottom data obtained from geophysical surveys may be correlated directly with the surface and subsurface geologic and engineering properties of reef-site sediments obtained by bottom sampling, geotechnical borehole measurements, and core analysis. Combined with data from computerized ship navigation, the geophysical and geotechnical data provide accurate geologic information on the seafloor

and subbottom that can be used to identify geologic and man-made hazards (Ploessel and Campbell 1980; Bouma 1981; Prior 1984; Prior and Coleman 1984).

Numerous high-resolution geophysical surveys and geotechnical borings and cores have been obtained offshore of Louisiana by federal agencies, universities, other research institutions, and private industry. These data have been obtained (1) to assess strategic minerals and other resources on the continental shelf, (2) to identify areas on the continental shelf of potential archaeological significance, (3) to assess geologic engineering hazards to platform and pipeline installation for oil and gas exploration and development, and (4) to further geologic and oceanographic research projects. Although most of this data is proprietary, a considerable portion is within the public domain. Sources of proprietary and nonproprietary data identified for the proposed artificial reef planning areas are described below.

#### Nonproprietary data sources

MMS. Nonproprietary geophysical, geologic, and cartographic data available from the MMS in New Orleans include high-resolution geophysical data with survey trackline maps and technical reports, offshore area/lease block maps, bathymetric maps, pipeline and platform location maps, numerous technical reports and environmental impact statements, and visuals (various maps that illustrate bottom sediment type, oceanographic currents, shrimp trawling areas, etc.).

NGDC. Nonproprietary geophysical and geologic data available from the National Geophysical Data Center (NGDC) in Boulder, Colorado, include high-resolution geophysical data with survey trackline maps and technical

reports; bathymetric data; magnetics data; numerous logs of cores, grab, and dredged samples; and geotechnical borings.

DNR. Nonproprietary data available from the Louisiana Department of Natural Resources (DNR) include latitude/longitude coordinates and well-status information for drilling and production facilities in Louisiana territorial waters. This information will be used to prepare location maps showing where "shell pads" were utilized to prevent drilling barges and production facilities from sinking into the soft, muddy sediments. The firm substrate offered by the shell pads has proved to be an effective fish attractor in an otherwise soft-bottom environment. The shell-pad location maps will be prepared for use by nearshore and inland fishermen.

Other data sources. Additional nonproprietary data available include published research papers, technical reports, and other publications, as well as detailed bathymetric and seafloor morphologic and sediment maps.

#### Proprietary Data Sources

MMS. In addition to nonproprietary data, MMS files also archive proprietary data. Although these data may not be released without the permission of the respective offshore operators, they may be inspected by authorized representatives of the state. These data are required of the offshore operators to ensure compliance with federal regulations concerning exploration, development, and construction on the outer continental shelf. Proprietary data archived at MMS include high-resolution and deep-penetration geophysical data, geotechnical borings and technical reports, and archaeological, hazard, and pipeline side-scan sonar and magnetometer surveys and technical reports. The proprietary data at MMS can be used as a supplementary data base for those lease blocks within

artificial reef planning areas for which no nonproprietary data is available.

Offshore operators. Numerous offshore operators engaged in oil and gas exploration and development on the Louisiana continental shelf have obtained large quantities of high-resolution geophysical data; geotechnical borings and cores; archaeological, hazard, and pipeline surveys; and platform and pipeline location maps. Proprietary data will generally be requested from participating offshore operators who have leases for blocks within the proposed artificial reef planning areas for which nonproprietary data is not available.

Other data sources. Additional "nonexclusive" proprietary geophysical data from several geophysical surveying companies are also available for certain areas offshore of Louisiana, although these data are generally rather expensive. Also, atlases of the seafloor sediments and their general engineering properties offshore of Louisiana have been published by McClelland Engineers and are available for purchase.

#### Data Collection and Correlation

Once the data are identified and located through the procedures outlined above, copies are made or purchased. The geophysical and geotechnical data are used to compile information on the geologic and man-made hazards on the seafloor that must be avoided. Features mapped from the geophysical, geotechnical, and cartographic data that are considered "hazards" include faults, gas pockets and vents, sediments of low bearing capacity, irregular and steep seafloor topography, active and relict channels, scarps, salt diapirs, natural reefs, pipelines, platforms, sub-sea production facilities, unstable areas on the seafloor susceptible to landslides (i.e., Mississippi delta region), and others. Planners use

these maps to determine the most suitable sites for artificial reefs within the proposed planning areas.

Once a suitable site is selected and materials identified, a placement pattern/design is constructed that will optimize both stability and habitat-enhancement goals (Sport Fishing Institute 1985).

### User-Group Preferences

Analysis of User-Group Patterns. The use patterns of recreational fishermen, commercial fishermen, and sport divers were analyzed in an effort to select areas that participants in the artificial reef program would prefer. Several available sources of data document user-group patterns. The Sport Fishing Institute published a document that explains exclusion mapping to maximize artificial reefs for recreational fishermen in the Gulf of Mexico (Myatt and Ditton 1986). This report discusses recreational user-group patterns in four population centers--New Orleans, Houma, Lafayette, and Lake Charles. It lists the locations of public boat launches, numbers of boats in the areas, and water-depth patterns offshore at these respective population centers. In general, Myatt and Ditton (1986) report that recreational fishermen are willing to travel some 25 miles from their departure points. This finding is based on boat size, fuel consumption, and phone interviews of recreational fishermen.

In a separate study, the MMS collected data from offshore petroleum platform operators (Ditton and Auyong 1984). Operators on the platforms were given questionnaires concerning the types of boats, number of fishermen, and types of fish being caught off various structures. Analysis of these data confirms the Myatt and Ditton finding that, in general, recreational fishermen fished an average of 25 miles from shore. Average distance from shore varied by region from 29 miles on the western

side of the state to 12 miles off the New Orleans area. The MMS study revealed a similar pattern for charter fishermen, scuba divers, and commercial fishermen, although these groups were willing to go farther offshore than recreational fishermen. The MMS study found that, in general, charter fishermen were willing to go 16-40 miles offshore, scuba divers 19-47 miles offshore, and commercial fishermen 23-72 miles offshore.

Menhaden and shrimp industry preferences. In assessing user-group data, planners also had to consider both the menhaden and shrimp fisheries off Louisiana. Menhaden industry representatives reported that they operate generally within 5-10 miles of shore fairly uniformly along the coast. However, they indicated that if the state wished to place artificial reefs within this range of the shoreline, they would help the Council select specific sites not heavily fished during the menhaden season.

Representatives of LARI also consulted with members of the shrimp industry. The Louisiana Cooperative Extension Service coordinated two meetings in Lafitte and Galliano between shrimp fishermen and council members. Shrimping industry representatives indicated that in general they had no objections to the Louisiana Artificial Reef Program if they were involved in the specific site-selection process. After reviewing the proposed sites shown in Figure 1, the shrimping representatives provided specific input concerning which areas within these sites would be acceptable. Future siting activities should include immediate contact with the shrimping industry through the marine advisory service of the Louisiana Cooperative Extension Service.

In general, shrimpers strongly preferred that artificial reefs and reef complexes be sited where existing structures are located. Interestingly, shrimpers will drag to within 0.25 mile of a structure because

these areas tend to be more productive. We anticipate that most, if not all, artificial reefs will be placed in areas where oil and gas structures and other obstructions now exist.

#### Artificial Reef Planning Areas

Site selection for Louisiana's Artificial Reef Program will occur in multiple phases. Upon completion of the exclusion and selection mapping, the sites most suited for reef construction during Phase I were identified (locations listed in Appendix IV; Figures 1 and 2). These selections were based on the best available scientific information and comments obtained from user groups, the oil and gas industry, and other federal and state agencies.

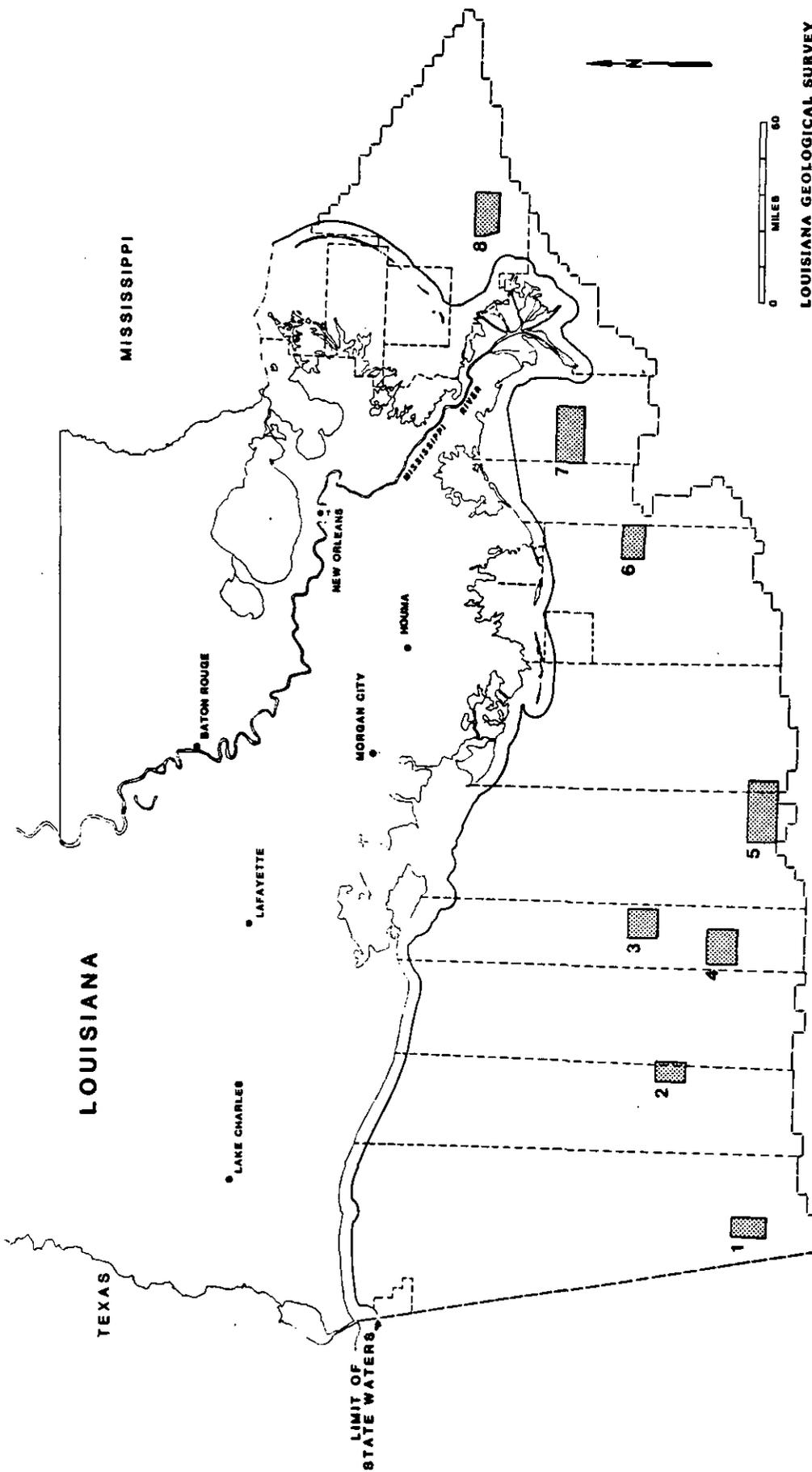
#### Public Hearings

Public hearings were held at the following times and locations to obtain additional information concerning user-group preferences for reef sites:

Houma: February 26, 1987  
7:30 p.m., East Park Recreation Center

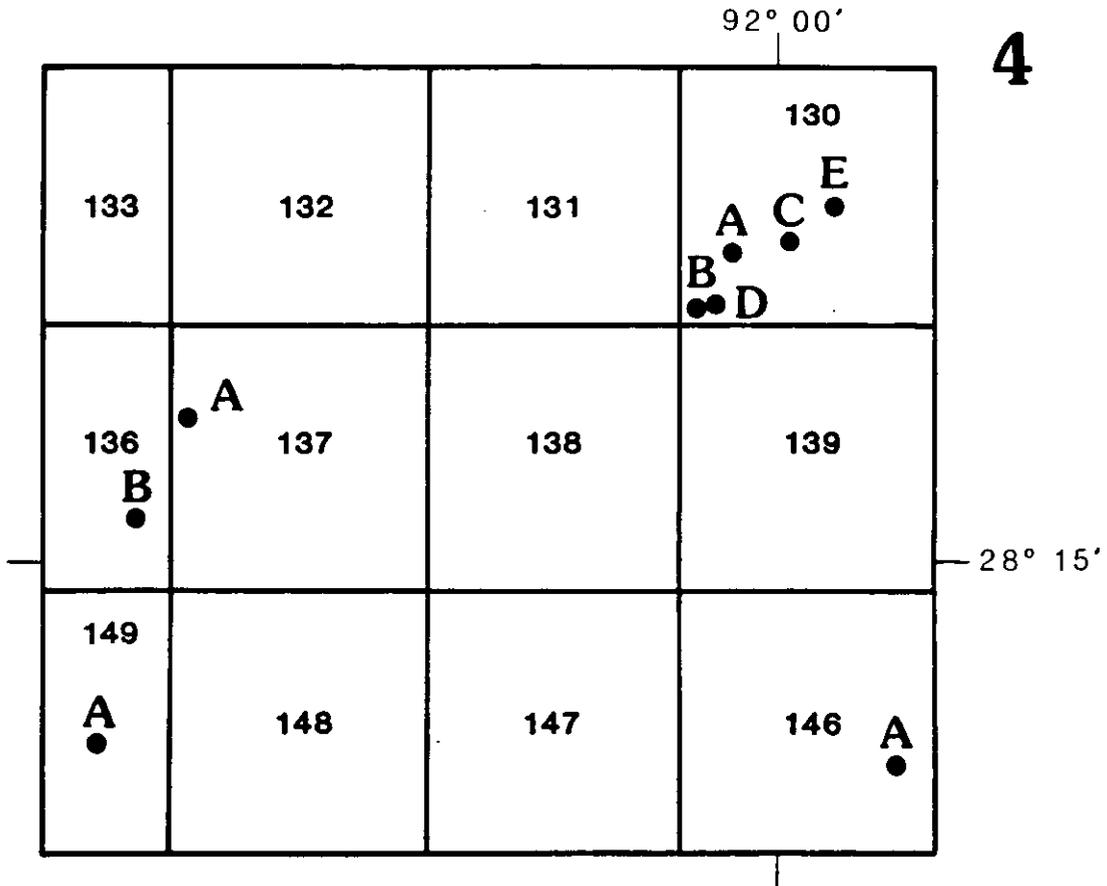
Chalmette: March 5, 1987  
7:30 p.m., Police Jury Meeting Room  
St. Bernard Police Jury Office  
Government Complex

Lake Charles: March 9, 1987  
7:30 p.m., Police Jury Meeting Room  
Calcasieu Policy Jury Office  
Government Complex



- 1. West Cameron Planning Area
- 2. East Cameron Planning Area
- 3. South Marsh Island (76) Planning Area
- 4. South Marsh Island (146) Planning Area
- 5. Eugene Island Planning Area
- 6. South Timberlifer Planning Area
- 7. West Delta Planning Area
- 8. Main Pass Planning Area

Figure 1. Offshore Louisiana artificial reef planning areas (Phase I). Reef complexes will not exceed 0.75 square mile in area.



<b>BLOCK</b>	<b>NO.</b>	<b>OPERATOR</b>
130	A	Shell Offshore, Inc.
130	B	Shell Offshore, Inc.
130	C	Shell Offshore, Inc.
130	D	Shell Offshore, Inc.
130	E	Shell Offshore, Inc.
136	B	Conoco, Inc.
137	A	Conoco, Inc.
146	A	Cities Service Co.
149	A	Shell Offshore, Inc.

Figure 2. South Marsh Island (146) planning area.

As a result of these hearings, the south Timbalier planning area (no. 6, Figure 1) was added off the Fourchon/Timbalier coastline. These hearings also provided detailed and valuable information regarding which specific areas and platforms fishermen preferred. Ideas on the buoying of sites, descriptions of the depth and profile of reef that scuba divers prefer, and many other types of information were obtained at the hearings. Virtually all of the comments obtained supported the concept of an artificial reef plan for Louisiana. Many interest groups felt that a centrally coordinated state plan was critical to preventing artificial reef development from deteriorating into haphazard ocean dumping off the Louisiana coast.

#### Phase I Sites

For several reasons, Phase I will focus on areas of the federal outer continental shelf (OCS) where water depths are greater than 90 feet. Because the enabling legislation does not provide a state budget for the program, it must develop an independent funding base. This will depend upon oil and gas companies donating a portion of their savings realized through their participation in the program. Therefore, money will have to be generated from the offshore program to fund the development of a nearshore and inshore program. Additionally, the first few years of Louisiana's plan will be a learning process, and slight errors in placement will have less impact in the greater depths of the Phase I areas than they would inshore.

#### Phase II Sites

Phase II of the program will include the establishment and maintenance of artificial reefs in state waters. Presently, there are still

numerous shell pads, wellheads, and the remains of jackets from inshore oil and gas activities that can provide cores for reef habitats.

The first step in developing the inshore program will be to map all of the inshore obstructions known to exist. The Louisiana Department of Wildlife and Fisheries (LDWF) will publish these maps and provide them to fishermen. The state will next determine which of these obstructions would be most effective as reefs. Whether it would be more valuable to enhance shell pads with more shell or to use concrete rubble and other available materials through the oil and gas industry are among the questions that must be answered.

## PERMITTING

This section presents a general overview of the regulatory authorities involved in permitting artificial reefs. Much of the information was taken from a guide by Richard Christian (1984b) of the Artificial Reef Development Center in Washington, D.C. Christian compiled information for the guide by reviewing existing artificial reef programs and contacting appropriate agency administrators at the regional and national levels.

### Primary Agencies

At least two agencies are directly involved in issuing permits for artificial fishing reefs in federal waters: the COE and the U.S. Coast Guard. These highly decentralized agencies have regional decision-making capabilities, and agency-promulgated rules and regulations are thus subject to interpretation by the regional district authorities. As a result, permits are considered on a case-by-case basis within the agency's legislatively mandated authority. Approval of an application depends on regional or site-specific variables as well as the physical characteristics of the material to be used for reef construction. In some cases, the necessary permits may be obtained within a minimal amount of time (U.S. Dept. Commerce 1985). However, as in the case of the Texas Liberty Ship Reef Program, the permit process may be hindered by unforeseen delays.

### U.S. Army Corps of Engineers

A permit from the COE is the primary certificate of approval for establishing the reef (Figure 3). Applications for these permits are open for review and comment through public notice and notices sent directly to state and federal agencies or concerned private interests at the discretion of the COE district engineer. Several federal agencies

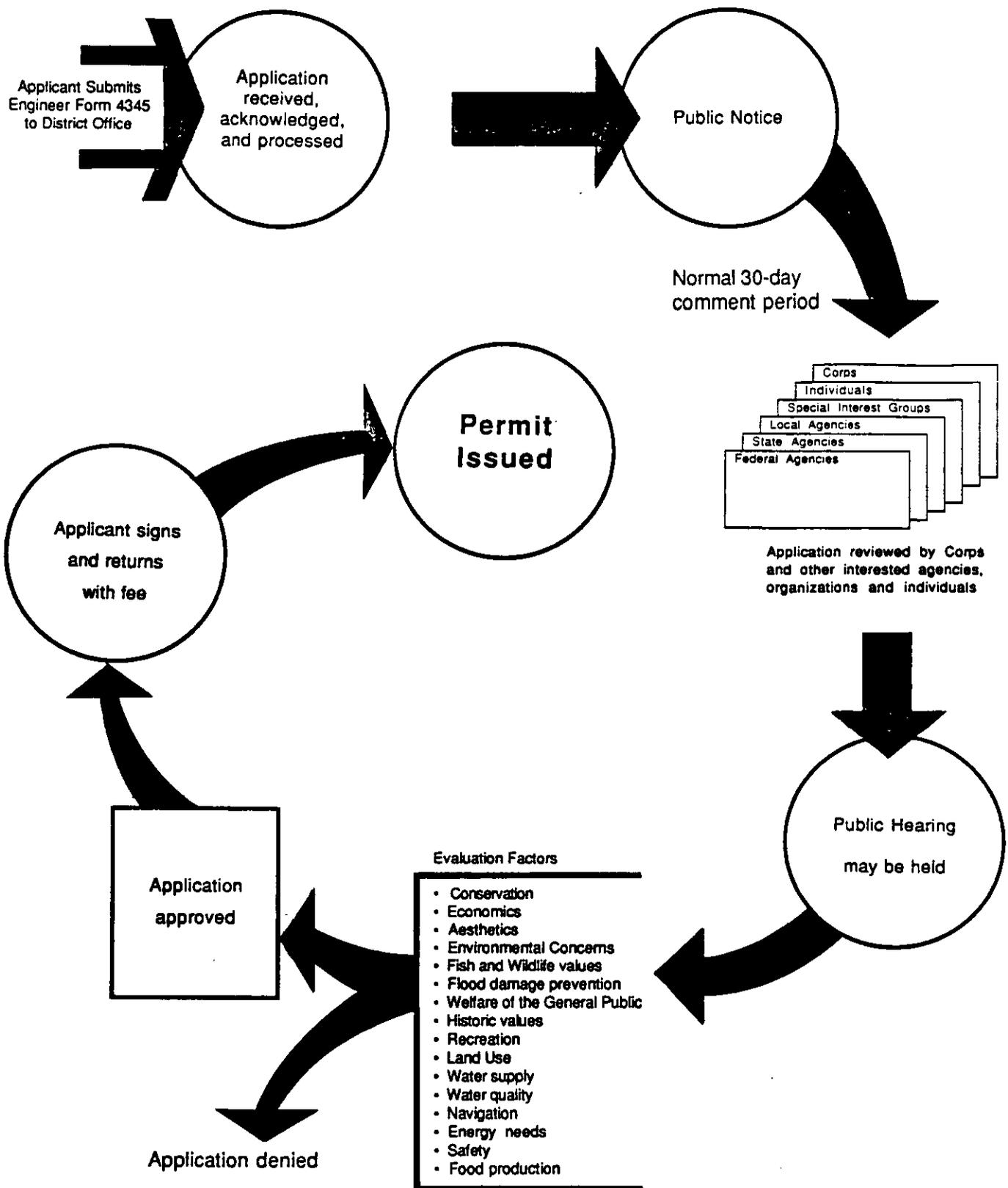


Figure 3. Typical permit review process of the U.S. Army Corps of Engineers (from U.S. Army Corps of Engineers 1977).

may indirectly participate in the permit process through COE solicitation of evaluation and comment. In the territorial sea, state authorization precedes federal approval of applications. Up to 12 federal and state agencies may review a permit application before it is approved. The number and type of reviewing groups, organizations, or agencies varies according to the material to be used and site-specific variables (U.S. Dept. Commerce 1985).

All pertinent information regarding the COE permit program was published in the "Final Rule for Regulatory Programs" in the Federal Register, Vol. 51, No. 219, November 13, 1986, under Title 33 CFR, parts 320 through 330 (Appendix V). These rules and regulations incorporate authorities mandated to the COE as set forth in public law. A permit to site a structure to be used as an artificial fishing reef is granted by the COE under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403). Section 10 authorizes the COE to prohibit the obstruction or alteration of any navigable waters of the United States. Section 4 of the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1333[f]) extends this authority to artificial islands and fixed structures on the outer continental shelf (beyond the territorial sea). Hence, a Section 10 permit is required for structures in either the territorial sea or beyond on the outer continental shelf.

Structures placed within the territorial sea must also comply with Section 404 of the Clean Water Act of 1972 (PL 92-500; 33 U.S.C. 1344). Regulations promulgated under Section 404 (33 U.S.C. 1344) require that a COE permit be obtained before dredge or fill material is discharged into any of the navigable waters of the United States and stipulate state

certification of discharge projects. The term "discharge of fill material" is defined in 33 CFR 323.2(1).

States are provided an opportunity to veto COE approvals under Section 401 of PL 92-500 (33 U.S.C. 1251g). State consistency certification is also required under approved Coastal Zone Management programs. This authority stems from Section 307(c)(3) of the Coastal Zone Management Act of 1972 (PL 92-583; 16 U.S.C. 1463).

Much of the authority for administering the COE's permitting process has been delegated to the separate district engineers through 33 CFR 320.1(a)(2).

#### U.S. Coast Guard

After the required COE permit is obtained, a reef sponsor must next apply to the U.S. Coast Guard to establish private aids to navigation. The Coast Guard exercises regulatory authority over artificial reef structures to ensure that obstructions in U.S. waters are properly marked for the protection of maritime navigation (this authority is granted the Coast Guard under 43 U.S.C. 1333[e], 14 U.S.C. 81-87, and 33 CFR, parts 64-66). Under 43 U.S.C. 1333(e), the secretary of the department in which the Coast Guard is operating has the authority to "promulgate and enforce such reasonable regulations" with respect to aids to navigation. Further, under 14 U.S.C. 81, the Coast Guard is given authority to establish and maintain a system aiding navigation for commerce and the armed forces. Under 14 U.S.C. 83-85, penalties are prescribed for establishing unauthorized aids to maritime navigation, for interference with aids to navigation, and for failure to comply with the rules and regulations set forth in 33 CFR parts 64 and 66 (Appendix VI).

Most important to reef builders, under Section 86 of 43 U.S.C., the owner of an obstruction is held liable to the United States for the cost of such marking "until such time as the obstruction is removed or its abandonment legally established or until such earlier time as the Secretary may determine." Myatt (1984) estimates buoy costs to range from \$300 to \$13,000 and annual maintenance costs to average approximately \$1,000 per year.

Regulatory authority is delegated to the Coast Guard district commander (within the confines of his respective district) under 33 CFR 66.01-3. At the recommendation of the COE district engineer, the district commander will decide, on a case-by-case basis, if marking is required (33 CFR 64.30) and the type, number, and description of the required markings (Sec. 64.20-1).

Artificial reefs are classified as obstructions to navigation and must be marked in accordance with current U.S. Coast Guard Eighth District "Guidelines for marking submerged artificial structures in the Gulf of Mexico." The following criteria are general guidelines; specific decisions regarding each reef site are made on a case-by-case basis. As part of the permitting process, the reef permit holder is required to use "Private Aid to Navigation Application Form CG-2554" to apply to the Eighth District, U.S. Coast Guard, New Orleans, Louisiana, for approvals for marking each reef site. In general, three factors determine the marking requirements for artificial fishing reefs:

1. distance from navigation fairways
2. diameter of the reef complex
3. minimum clearance between the top of the reef structure and the water surface

Each requirement is discussed below.

Distance from navigation fairways. If an artificial reef is located within 500 yards of a fairway, channel, or anchorage area, a quick-flashing, lateral (i.e., red or green) marker is to be placed between the edge of the reef and the fairway (see Figure 4A). This marker is in addition to any yellow buoy required for locating the reef complex. The reef complex must be located at least 2 miles from fairways, channels, or anchorages for any waiver request to be considered by the U.S. Coast Guard.

Overall diameter of the reef complex. The size of the complex is determined by the widest dimension of the actual submerged structure.

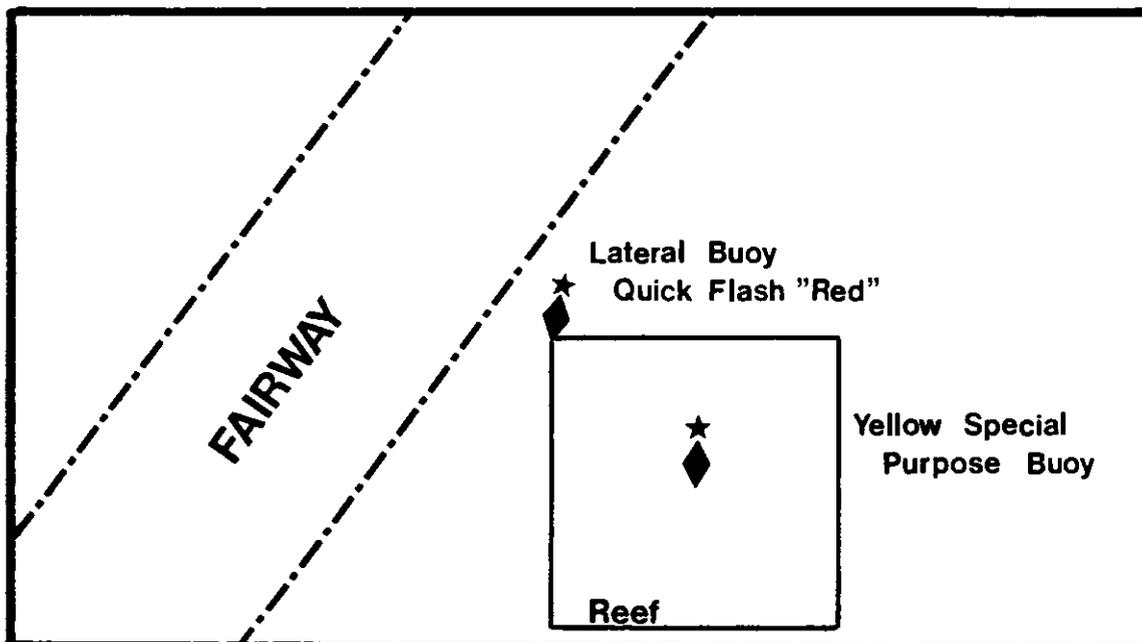
Reef marking requirements are divided into three size categories:

1. Reef complexes of up to 0.5 mile from the center with less than 85 feet of water clearance are required to have one lighted, 6-second, yellow, special-purpose buoy located at the center of the complex. Reefs with more than 85 feet, but less than 200 feet, of water clearance are required to have one unlighted, yellow, special-purpose buoy located at the center of the complex. A complex with more than 200 feet of water clearance over the structure is not required to have any markers (Figure 4B).
2. Reef complexes extending from 0.5 to 1.0 mile from the center with less than 85 feet of water clearance are required to have one lighted, 6-second, yellow, special-purpose buoy on each corner of the reef complex. Complexes with more than 85 feet, but less than 200 feet, of water clearance are required to have one unlighted, yellow, special-purpose buoy on each corner of the reef complex. Complexes with more than 200 feet of water

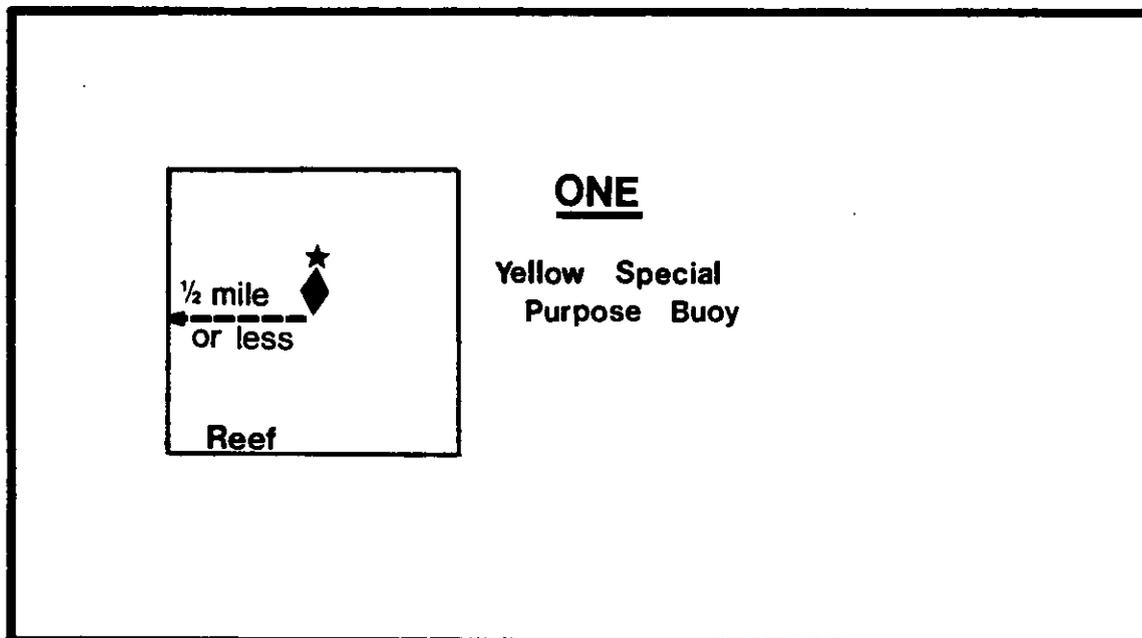
clearance over the reef structure are not required to have any marker (Figure 4C).

3. Reef complexes extending over 1.0 mile from center with less than 85 feet of water clearance are required to have one lighted, 6-second, yellow, special-purpose buoy on each corner of the reef complex. Additional yellow buoys are to be located at 1.0-mile intervals around the circumference of the reef complex, as determined by the Eighth District, U.S. Coast Guard. Reef complexes with more than 85 feet, but less than 200 feet, of water clearance are required to have one unlighted, special-purpose buoy on each corner of the reef complex. Additional unlighted, yellow buoys are required at 1.0-mile intervals around the circumference of the complex as determined by the U.S. Coast Guard. Reef complexes with more than 200 feet of water clearance over the reef structure are not required to have any marker (Figure 4D).

Buoy identification. The Eighth District, U.S. Coast Guard, will assign an identification number to each buoy on the returned copy of the approved "Private Aid to Navigation Application Form (CG-2554)." This assigned number will consist of the letters "FR" (for "fishing reef"), followed by LA (for Louisiana), and an assigned number (e.g., FR-LA-1). Larger reefs requiring more than one buoy will have letter suffixes assigned to identify each buoy. The assigned number will be displayed at least once on each buoy, in block lettering of contrasting color. The identification must be at least 3 inches high, larger if buoy space permits. There are no Coast Guard limitations concerning other markings

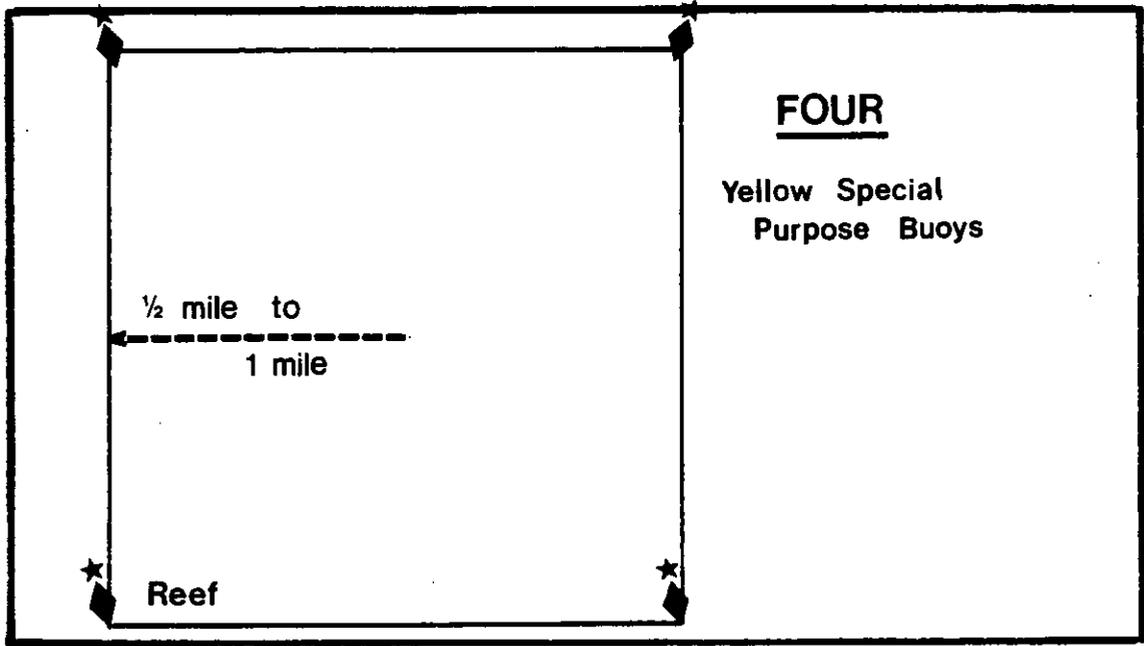


**A**

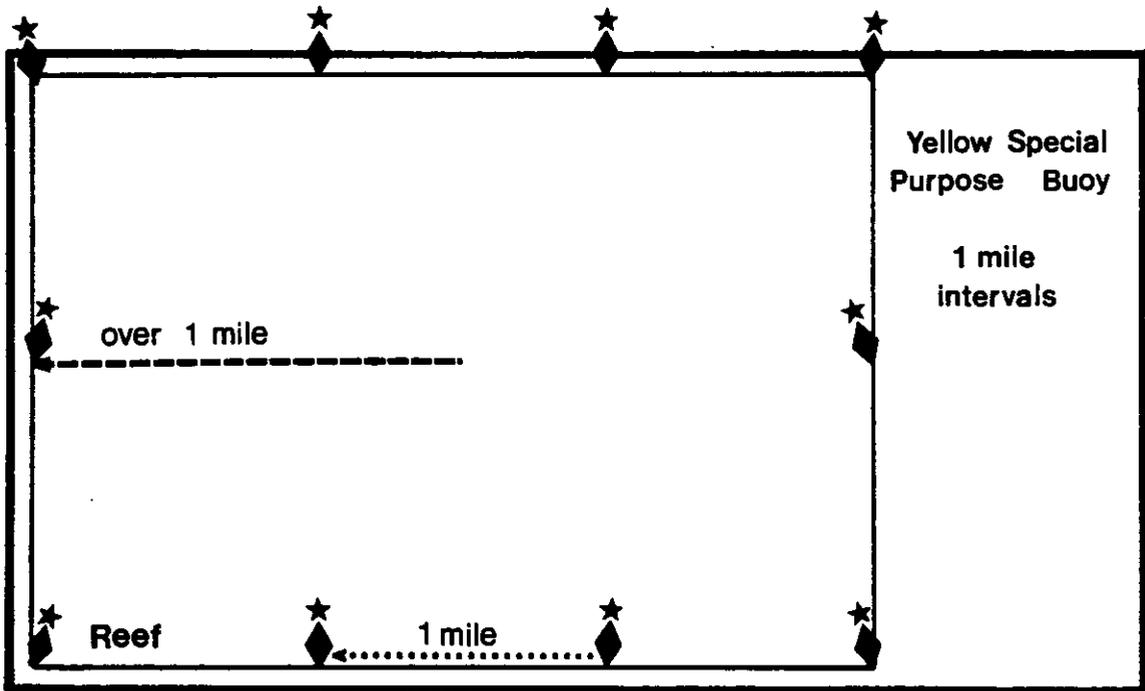


**B**

Figure 4. U.S. Coast Guard buoying requirements for artificial reefs: (A) requirements for reef complexes within 500 yards of a fairway, channel, or anchorage area; (B) requirements for reef complexes of up to 0.5 mi from the center; (C) requirements for reef complexes extending from 0.5 to 1.0 mile from the center; and (D) requirements for reef complexes extending over 1.0 mile from the center.



C



D

Figure 4. Continued.

(such as program logos) on the buoys, but they must not interfere with the assigned Coast Guard identification number.

Waiver of marking requirements. Marking requirements for each reef complex, and requests to waive requirements, will be determined on a case-by-case basis by the Eighth District, U.S. Coast Guard. Current guidelines for granting waivers of marking requirements are as follows: A waiver of lighted buoy requirements may be granted for reefs with over 50 feet of water clearance. A waiver of marking requirements may be granted for reefs with over 85 feet of water clearance once the reef is charted on navigational charts.

The following requirements must be met for a waiver to be considered:

1. The reef structure must be over 2 miles from fairways, channels, and anchorages.
2. The reef must have a minimum of 50 feet of water clearance.
3. The entire reef complex must be adequately marked and charted.
4. The individual reef structure must be part of an overall reef plan involving a number of reefs.
5. There must be no history of deep-draft traffic through the area.

The Coast Guard suggests that reef sponsors contact the district Coast Guard office early in the process so that the marking requirements can be approximated and the cost considered in deciding whether the reef should be constructed.

#### Other Affected Agencies

Other agencies may play an indirect role in the processing of COE permits. These agencies become involved through authorities outlined in public laws relating to the COE authority and through special interests

of national and regional concerns. The final decision of whether to issue or deny a permit will be the result of comments from state and federal agencies obtained through the public notice procedure. The agencies that may be involved in this procedure include, but are not limited to, the U.S. Environmental Protection Agency (EPA), the National Parks Service (NPS) (through the Advisory Council on Historic Preservation), the Department of Defense, the MMS, the U.S. Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NMFS), and state agencies (e.g., DNR, Department of Culture, Recreation and Tourism).

#### EPA Authority

Some discrepancy occurs within the laws granting authority to the EPA for the permitting of artificial reef structures. In general, the EPA acts only as a review agency for COE permits. Typically, the EPA will not require a separate permit if the structure is intended for fisheries enhancement and the reef materials do not violate water-quality standards (Casselbaum 1983; Rogers 1983; Vickery 1983). The EPA reviews permits using criteria developed for the EPA permit program for ocean dumping and the permit program for the National Pollution Discharge and Eliminations Systems (NPDES). Under Section 122.3(b) of 40 CFR, materials regulated under Section 404 (33 U.S.C. 1344) of the Clean Water Act are excluded from NPDES permit requirements.

#### Secretary of Commerce Authority

The Secretary of Commerce, acting through the National Oceanic and Atmospheric Administration (NOAA) and the NMFS, is authorized to administer Section 302 of the Marine Protection Research and Sanctuaries Act of 1972 (PL 92-532; 16 U.S.C. 1431). Section 1431 of 16 U.S.C. authorizes the

Secretary of Commerce to designate areas within the oceans and the Great Lakes as sanctuaries for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or aesthetic values. Activities within a designated sanctuary are allowed only if NOAA certifies that those activities are consistent with the regulations of the sanctuary.

#### USFWS and NMFS Authority

Under the Fish and Wildlife Coordination Act of 1956 (16 U.S.C. 760c-760g) and the Reorganization Plan No. 4 of 1970, any agency that proposes to control or modify any body of water must first consult with the USFWS, NMFS (as appropriate), and the head of the state agency managing the fish and wildlife resources of the affected state.

The USFWS and NMFS also share responsibilities under the Endangered Species Act (16 U.S.C. 1531. et. seq.) to conserve threatened and endangered species and the ecosystems on which those species depend. Activities should not jeopardize, destroy, or adversely modify habitat of species covered by the Endangered Species Act.

#### NPS Authority

The NPS, acting through the Advisory Council on Historic Preservation, may voice concerns if a site selected could be of particular archeological or historical significance. Under the Historical and Archeological Data Act of 1974 (16 U.S.C. 469 et. seq.), the Secretary of the Interior may take action necessary to recover and preserve any data of significance before a project begins.

### Department of Defense Authority

A number of restricted areas, danger zones, and prohibited areas in the oceans are set aside for safety or the security of the U.S. Navy, U.S. Air Force, or National Aeronautics and Space Administration (Goode 1985). The Department of Defense may become involved if a proposed artificial reef site falls within military stipulation areas. Some areas may be more sensitive in regard to military operations, especially when metal is to be used in reef construction.

### MMS Authority

The MMS reviews artificial reef applications with respect to areas of prospective development of hydrocarbons and other mineral resources. The MMS might object if reef construction could prohibit or interfere with the effective extraction of mineral resources.

### DNR Authority

The Coastal Zone Management Division of DNR issues coastal-use permits for activities in state waters and reviews activities in federal waters that have a direct and significant impact on state waters for consistency with program guidelines. This state artificial reef plan will be reviewed for consistency by the Coastal Management Division, and its findings will be incorporated into the program.

### Permit Application and Processing

The procedure for obtaining the necessary permits to establish an artificial reef is somewhat confusing because of the lack of interagency communication or agreements on specific standards and criteria for artificial reef implementation. Although artificial reefs have been used in the United States for many years, interpretation of the general laws

and rules and regulations has varied from case to case. In some instances, interpretation has varied between agencies or even between the regional offices of those agencies.

The NMFS Office of Marine Recreational Fisheries in Tampa, Florida, has been working with the COE District Office in Jacksonville, Florida, to develop criteria to be incorporated into a general permit for artificial reefs (Schmied 1983). As a result, the COE District Office in Jacksonville has recently issued a public notice and draft of a General Permit, SA J-50, for artificial fishing reefs and fish attractors proposed to be sited in the waters of Florida, the Commonwealth of Puerto Rico, the U.S. Territory of the Virgin Islands, and in the adjacent waters subject to U.S. jurisdiction.

The general procedure for obtaining a reef permit is outlined in Figure 3. Following this procedure, the applicant first notifies the COE district engineer and asks for a pre-application consultation for a Section 10 permit identifying all the agencies and public interest groups (e.g., sport and commercial fishermen) that may become involved in the review process. It is particularly important for the applicant to consult the Coast Guard district office at this stage because the marking requirements may prove to be costly to the project in the long run.

The COE will make recommendations to the Coast Guard with regard to establishing private aids to navigation. The applicant is responsible for contacting the Coast Guard district commander and submitting an application, Form CG 2554, to establish private aids to navigation. This permit is typically issued without delay. After the necessary permits have been obtained and the reef has been placed, the permittee is solely

responsible for maintenance costs and making routine inspections to verify that the required markers remain in place.

## IMPLEMENTATION

### Procedures

This state plan, approved by the Louisiana Artificial Reef Council and the Senate and House Natural Resources Committees, will be implemented under the leadership of the LDWF. The following concurrent actions are required to initiate the implementation process:

1. Permit applications must be prepared and submitted to the appropriate state and federal agencies.
2. Public notice must be given to oil and gas operators in both state and federal offshore waters. This will be accomplished by sending a letter to all members of the Offshore Operators Committee inviting their participation. A separate letter will be sent to the Mid-Continent Oil and Gas Association to solicit the participation of oil and gas companies operating in state waters.

Materials will be accepted or rejected for use as artificial reefs on a case-by-case basis by consensus of the Louisiana Artificial Reef Council. A donation agreement will then be signed by the Secretary of the LDWF or his designee and an authorized representative of the company, organization, or individual donating the reef material. A suggested "Act of Donation" that can be used for this purpose is presented in Appendix VII.

Artificial reef complexes will be sited within each planning area on the basis of the best available information regarding bottom type, currents, bathymetry, and other factors affecting the performance and productivity of a reef. The precise design and location of reef complexes will also depend upon the physical dimensions of the donated materials.

We anticipate that retired oil and gas structures will be the primary materials available for reef construction off the Louisiana coast.

Five alternatives exist for emplacing and utilizing oil and gas structures as artificial reefs (Bleakey 1982; Christian 1984a; Ditton and Falk 1981; Frishman 1982; National Research Council 1985; Reggio 1987; Sport Fishing Institute 1985).

1. The short-term plan most popular with oil and gas companies is to leave the structures standing in place. Many fishermen also prefer this option because they can easily locate and tie up to the structures. However, this alternative would increase liability associated with the reef site. This option also requires that the structure be lighted and maintained with cathodic protection. In addition, Department of Defense representatives recently shared their concerns about this option with representatives of other countries at a meeting of the International Maritime Organization concerning the International Law of the Sea. The organization may establish international regulations prohibiting this option in the future; also the Navy has informed the state of Louisiana that it would object to any permit incorporating this option.
2. Partial removal of a structure, the second option, entails cutting off the structure at a preselected, approved depth below the water line. This option represents one of the most stable ways of emplacing an oil and gas structure as an artificial reef because the structure would be well anchored and have only a minimal chance of drifting. Maintenance costs and liability risks would therefore be minimized.

3. A third option is to cut the upper portion of the structure at a preselected depth and allow it to topple over next to the lower part. This option is attractive because it would provide a relatively stable structure and minimize the chance of drifting.
4. The option most attractive to the Department of Defense is relocation of the oil and gas structures to permitted sites. This option entails cutting the rig off 15 feet below the mud line, picking up or floating the structure to a new artificial reef site, and sinking it on that site in a manner consistent with the terms and conditions of the permit.
5. A fifth option is to use a combination of any or all of the above-mentioned alternatives. Part of the site-selection process could include gathering information on existing structures. Other structures could then be moved to the selected site to enhance the existing habitat. A number of architectural variations are possible under this option. For example, one oil and gas structure could be cut off at a predescribed depth consistent with the law and other oil and gas structures subsequently emplaced in a spokelike fashion radiating out from the central rig.

#### Roles of Primary Participants

Pursuant to the Louisiana Fishing Enhancement Act, three entities will be the primary participants in Louisiana's Artificial Reef Program: the LDWF, the Louisiana Geological Survey (LGS) at LSU, and the Center for Wetland Resources (CWR) at LSU.

The LDWF will administer and enforce the program as provided in the Louisiana Fishing Enhancement Act and in accordance with the NFEA. This will include planning and reviewing permit applications with the advice of the CWR and LGS. The LDWF will also coordinate activities with relevant state and federal agencies, hold joint public hearings on proposed reef sites, oversee the maintenance and placement requirements of the artificial reefs, and gather additional technical information needed to carry out the program. The LDWF will either oversee or contract out buoying stipulated under permits. The LDWF will periodically publish maps depicting the location of inshore and offshore artificial reefs and other obstructions, which will be useful to Louisiana's commercial and recreational fishermen. To promote public relations, the LDWF will cooperate with the media by arranging news releases concerning new artificial reef sites and by occasionally providing data of public interest concerning artificial reef activities in Louisiana.

The LGS at LSU will provide geotechnical support for siting reefs through evaluation and interpretation of available geologic data. This data will be used to identify geologic hazards and determine sediment type and suitability. The LGS will assist the Department by coordinating federal and state permitting procedures and other activities and will develop engineering criteria for the placement of reefs in cooperation with the offshore operators or other parties donating the reef materials. In addition, the LGS will serve as liaison with federal (MMS) and state (DNR) agencies to consider the potential for future oil and gas or other mineral leasing and production activities in reef-site areas in the respective federal or state territorial waters.

The CWR at LSU will provide technical support to the LDWF for program development. The CWR will prepare, update, and provide the LDWF with technical, biological, and operational criteria for site selection and development and assist the LDWF in preparing permit applications for artificial reefs. In addition, the CWR will work to develop a biological monitoring program to evaluate created artificial reefs for future improvements. The CWR will evaluate reef potential and design and update exclusion mapping as necessary. The CWR will also assist LDWF in promoting public awareness of the program.

## ACKNOWLEDGMENTS

The authors wish to express their appreciation to the members of the Louisiana Artificial Reef Initiative who participated in the drafting of this plan.

The concept of rigs-to-reefs was first brought to light by Mr. Dana Larson (Rigs-to-Reefs Company) and Mr. Villere Reggio and Ms. Maureen Fleetwood of the Department of the Interior's Minerals Management Service. The authors would like to acknowledge that it was the vision and perseverance of these individuals that have made this program a reality in the Gulf of Mexico.

This project was funded in part with Federal Aid in Sport Fish Restoration Funds under Louisiana Project F-54 through the Louisiana Department of Wildlife and Fisheries, the Amoco Foundation, and Louisiana State University.

We wish to express our appreciation to Gerald Adkins and Corky Perret, Louisiana Department of Wildlife and Fisheries, for their continued support and guidance. We thank Richard Christian of the Sport Fishing Institute for allowing us to extract sections of his guide to permitting artificial reefs.

We would also like to thank Mary Hester for her editorial comments and Denise Duhe and Carolyn Lemon for typing and compiling the plan. Edwin B. Millet of the Louisiana Geological Survey Cartographic Section designed and executed the cover illustration. Susan Birnbaum, Edward Koch, and Robert Paulsell of the Survey drafted the other illustrations for the Plan.

We especially wish to thank State Representative Sam Theriot, State Senator Hank Lauricella, and State Representative Frank Patti, who authored Act 100 creating the Artificial Reef Program.

This document was prepared for the Louisiana Artificial Reef Council and represents Louisiana Department of Wildlife and Fisheries Technical Bulletin No. 41 and LSU Coastal Fisheries Institute contribution no. LSU-CFI-87-17.

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APPENDIX I

MEMBERS OF THE LOUISIANA ARTIFICIAL REEF INITIATIVE

Center for Wetland Resources, Louisiana State University  
Louisiana Cooperative Extension Service  
Louisiana Department of Culture, Recreation and Tourism  
Louisiana Department of Natural Resources  
Louisiana Department of Wildlife and Fisheries  
Louisiana Geological Survey, Louisiana State University  
Louisiana Sea Grant College Program  
Louisiana Wildlife Federation and other conservation groups  
National Marine Fisheries Service  
Offshore Operators Committee, oil and gas industry  
Recreational and commercial fisheries groups  
U.S. Army Corps of Engineers  
U.S. Department of the Interior, Minerals Management Service

APPENDIX II

NATIONAL FISHING ENHANCEMENT ACT OF 1984

1 TITLE II—ARTIFICIAL REEFS

2 SEC. 201. SHORT TITLE.

3 This title may be cited as the “National Fishing En-  
4 hancement Act of 1984”.

5 SEC. 202. FINDINGS AND CONCLUSIONS.

6 (a) FINDINGS.—The Congress finds that—

7 (1) although fishery products provide an important  
8 source of protein and industrial products for United  
9 States consumption, United States fishery production  
10 annually falls far short of satisfying United States  
11 demand;

12 (2) overfishing and the degradation of vital fishery  
13 resource habitats have caused a reduction in the abun-  
14 dance and diversity of United States fishery resources;

15 (3) escalated energy costs have had a negative  
16 effect on the economics of United States commercial  
17 and recreational fisheries;

18 (4) commercial and recreational fisheries are a  
19 prominent factor in United States coastal economies  
20 and the direct and indirect returns to the United States  
21 economy from commercial and recreational fishing ex-  
22 penditures are threefold; and

23 (5) properly designed, constructed, and located ar-  
24 tificial reefs in waters covered under this title can en-  
25 hance the habitat and diversity of fishery resources; en-

1       hance United States recreational and commercial fish-  
2       ing opportunities; increase the production of fishery  
3       products in the United States; increase the energy effi-  
4       ciency of recreational and commercial fisheries; and  
5       contribute to the United States and coastal economies.

6       **(b) PURPOSE.**—The purpose of this title is to promote  
7       and facilitate responsible and effective efforts to establish ar-  
8       tificial reefs in waters covered under this title.

9       **SEC. 203. ESTABLISHMENT OF STANDARDS.**

10       Based on the best scientific information available, artifi-  
11       cial reefs in waters covered under this title shall be sited and  
12       constructed, and subsequently monitored and managed in a  
13       manner which will—

14               (1) enhance fishery resources to the maximum  
15       extent practicable;

16               (2) facilitate access and utilization by United  
17       States recreational and commercial fishermen;

18               (3) minimize conflicts among competing uses of  
19       waters covered under this title and the resources in  
20       such waters;

21               (4) minimize environmental risks and risks to per-  
22       sonal health and property; and

23               (5) be consistent with generally accepted princi-  
24       ples of international law and shall not create any un-  
25       reasonable obstruction to navigation.

1 SEC. 204. NATIONAL ARTIFICIAL REEF PLAN.

2 Not later than one year after the date of enactment of  
3 this title, the Secretary of Commerce, in consultation with  
4 the Secretary of the Interior, the Secretary of Defense, the  
5 Administrator of the Environmental Protection Agency, the  
6 Secretary of the Department in which the Coast Guard is  
7 operating, the Regional Fishery Management Councils, inter-  
8 ested States, Interstate Fishery Commissions, and represent-  
9 atives of the private sector, shall develop and publish a long-  
10 term plan which will meet the purpose of this title and be  
11 consistent with the standards established under section 203.

12 The plan must include—

13 (1) geographic, hydrographic, geologic, biological,  
14 ecological, social, economic, and other criteria for  
15 siting artificial reefs;

16 (2) design, material, and other criteria for con-  
17 structing artificial reefs;

18 (3) mechanisms and methodologies for monitoring  
19 the compliance of artificial reefs with the requirements  
20 of permits issued under section 205;

21 (4) mechanisms and methodologies for managing  
22 the use of artificial reefs;

23 (5) a synopsis of existing information on artificial  
24 reefs and needs for further research on artificial reef  
25 technology and management strategies; and

1           (6) an evaluation of alternatives for facilitating the  
2 transfer of artificial reef construction materials to per-  
3 sons holding permits issued pursuant to section 205,  
4 including, but not limited to, credits for environmental  
5 mitigation and modified tax obligations.

6 **SEC. 205. PERMITS FOR THE CONSTRUCTION AND MANAGE-**  
7 **MENT OF ARTIFICIAL REEFS.**

8           (a) **SECRETARIAL ACTION ON PERMITS.**—In issuing a  
9 permit for artificial reefs under section 10 of the Rivers and  
10 Harbors Act of 1899, section 404 of the Federal Water Pol-  
11 lution Control Act, or section 4(e) of the Outer Continental  
12 Shelf Lands Act, the Secretary of the Army (hereinafter in  
13 this section referred to as the “Secretary”) shall—

14           (1) consult with and consider the views of appro-  
15 priate Federal agencies, States, local governments, and  
16 other interested parties;

17           (2) ensure that the provisions for siting, construct-  
18 ing, monitoring, and managing the artificial reef are  
19 consistent with the criteria and standards established  
20 under this title;

21           (3) ensure that the title to the artificial reef con-  
22 struction material is unambiguous, and that responsibil-  
23 ity for maintenance and the financial ability to assume  
24 liability for future damages are clearly established; and

1           (4) consider the plan developed under section 204  
2           and notify the Secretary of Commerce of any need to  
3           deviate from that plan.

4           (b) **TERMS AND CONDITIONS OF PERMITS.**—(1) Each  
5           permit issued by the Secretary subject to this section shall  
6           specify the design and location for construction of the artifi-  
7           cial reef and the types and quantities of materials that may be  
8           used in constructing such artificial reef. In addition, each  
9           such permit shall specify such terms and conditions for the  
10          construction, operation, maintenance, monitoring, and man-  
11          aging the use of the artificial reef as are necessary for compli-  
12          ance with all applicable provisions of law and as are neces-  
13          sary to ensure the protection of the environment and human  
14          safety and property.

15          (2) Before issuing a permit under section 402 of the  
16          Federal Water Pollution Control Act for any activity relating  
17          to the siting, design, construction, operation, maintenance,  
18          monitoring, or managing of an artificial reef, the Administra-  
19          tor of the Environmental Protection Agency shall consult  
20          with the Secretary to ensure that such permit is consistent  
21          with any permit issued by the Secretary subject to this sec-  
22          tion.

23          (c) **LIABILITY OF PERMITTEE.**—(1) A person to whom  
24          a permit is issued in accordance with subsection (a) and any  
25          insurer of that person shall not be liable for damages caused

1 by activities required to be undertaken under any terms and  
2 conditions of the permit, if the permittee is in compliance  
3 with such terms and conditions.

4 (2) A person to whom a permit is issued in accordance  
5 with subsection (a) and any insurer of that person shall be  
6 liable, to the extent determined under applicable law, for dam-  
7 ages to which paragraph (1) does not apply.

8 (3) The Secretary may not issue a permit subject to this  
9 section to a person unless that person demonstrates to the  
10 Secretary the financial ability to assume liability for all dam-  
11 ages that may arise with respect to an artificial reef and for  
12 which such permittee may be liable.

13 (4) Any person who has transferred title to artificial reef  
14 construction materials to a person to whom a permit is issued  
15 in accordance with subsection (a) shall not be liable for dam-  
16 ages arising from the use of such materials in an artificial  
17 reef, if such materials meet applicable requirements of the  
18 plan published under section 204 and are not otherwise de-  
19 fective at the time title is transferred.

20 (d) LIABILITY OF THE UNITED STATES.—Nothing in  
21 this title creates any liability on the part of the United States.

22 (e) CIVIL PENALTY.—Any person who, after notice and  
23 an opportunity for a hearing, is found to have violated any  
24 provision of a permit issued in accordance with subsection (a)  
25 shall be liable to the United States for a civil penalty, not to

1 exceed \$10,000 for each violation. The amount of the civil  
2 penalty shall be assessed by the Secretary by written notice.  
3 In determining the amount of such penalty, the Secretary  
4 shall take into account the nature, circumstances, extent, and  
5 gravity of the violation. The Secretary may compromise,  
6 modify, or remit with or without conditions, any civil penalty  
7 which is subject to imposition or which has been imposed  
8 under this section. If any person fails to pay an assessment of  
9 a civil penalty after it has become final, the Secretary may  
10 refer the matter to the Attorney General for collection.

11 **SEC. 206. DEFINITIONS.**

12 For purposes of this title—

13 (1) The term “artificial reef” means a structure  
14 which is constructed or placed in waters covered under  
15 this title for the purpose of enhancing fishery resources  
16 and commercial and recreational fishing opportunities.

17 (2) The term “State” means a State of the United  
18 States, the District of Columbia, Puerto Rico, the  
19 United States Virgin Islands, American Samoa, Guam,  
20 Johnston Island, Midway Island, and Wake Island.

21 (3) The term “waters covered under this title”  
22 means the navigable waters of the United States and  
23 the waters superjacent to the outer Continental Shelf  
24 as defined in section 2 of the Outer Continental Shelf

1       Lands Act (43 U.S.C. section 1331), to the extent  
2       such waters exist in or are adjacent to any State.

3   **SEC. 207. USE OF CERTAIN VESSELS AS ARTIFICIAL REEFS.**

4       The Act entitled "An Act to authorize appropriations  
5   for the fiscal year 1973 for certain maritime programs of the  
6   Department of Commerce and for other purposes", approved  
7   August 22, 1972 (16 U.S.C. 1220-1220c), is amended—

8           (1) by striking out "Liberty" each place it appears  
9       in sections 3, 4, 5, and 6 and inserting in lieu thereof  
10      "obsolete";

11          (2) by striking out "Commerce" in section 3 and  
12      inserting in lieu thereof "Transportation";

13          (3) by striking out "shall" in the matter preceding  
14      paragraph (1) in section 4 and inserting in lieu thereof  
15      "may", and

16          (4) by adding at the end thereof the following new  
17      section:

18      "SEC. 7. For purposes of sections 3, 4, 5, and 6, the  
19      term "obsolete ship" means any vessel owned by the Depart-  
20      ment of Transportation that has been determined to be of  
21      insufficient value for commercial or national defense purposes  
22      to warrant its maintenance and preservation in the national  
23      defense reserve fleet and has been designated as an artificial  
24      reef candidate."

1 SEC. 208. SAVINGS CLAUSES.

2 (a) TENNESSEE VALLEY AUTHORITY JURISDIC-  
3 TION.—Nothing in this title shall be construed as replacing  
4 or superseding section 26a of the Tennessee Valley Author-  
5 ity Act of 1933, as amended (16 U.S.C. 831y-1).

6 (b) STATE JURISDICTION.—Nothing in this title shall  
7 be construed as extending or diminishing the jurisdiction or  
8 authority of any State over the siting, construction, monitor-  
9 ing, or managing of artificial reefs within its boundaries.

• U. S. GOVERNMENT PRINTING OFFICE : 1986 491-097/46859

APPENDIX III

THE LOUISIANA FISHING ENHANCEMENT ACT OF 1986

Act 100

1986 REGULAR SESSION

LOUISIANA FISHING ENHANCEMENT ACT—  
ESTABLISHMENT AND MAINTENANCE OF  
ARTIFICIAL REEFS

ACT NO. 100

HOUSE BILL NO. 1111

AN ACT

To enact R.S. 36:610(H) and to enact Subpart M of Part VII of Chapter 1 of Title 56 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 56:639.1 through R.S. 56:639.10, to provide for the establishment and administration of the Louisiana Artificial Reef Development Program; to provide for agency participation in the program; to provide for the creation, placement, composition, powers, and duties of the Louisiana Artificial Reef Development Council; to provide for the acceptance and receipt of grants, donations of monies or materials, and other forms of assistance by the Department of Wildlife and Fisheries; to provide for the establishment of the Artificial Reef Development Fund, deposit into the fund, and expenditures from the fund; to provide for the funding of certain research projects, the development and preparation of the Louisiana Artificial Reef Development Plan, and the review of the plan by legislative committee; to provide for certain required contents of the plan; to provide for the acquisition of permits for the establishment of artificial reefs; to provide for the liability of participants in and donors to the program; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Subpart M of Part VII of Chapter 1 of Title 56 of the Louisiana Revised Statutes of 1950, comprised of R.S. 56:639.1 through R.S. 56:639.10, is hereby enacted to read as follows:

## SUBPART M. ARTIFICIAL REEFS

## §639.1. Title

This Subpart shall be known and may be cited as the "Louisiana Fishing Enhancement Act".

## §639.2. Purposes

The purpose of this Act is to promote and facilitate effective establishment and maintenance of artificial reefs in the offshore waters of Louisiana, as provided in this Act and in compliance with the National Fishing Enhancement Act. It is the further purpose of this Act to provide for the jurisdiction and cooperation of various state agencies in the implementation of any plan or program developed pursuant to this Act.

## §639.3. Definitions

As used in this Subpart, the following terms shall have the meanings ascribed to them in this Section, unless the context clearly indicates otherwise:

(1) "Artificial reef" means a structure or system of structures which is constructed, placed, or permitted in waters covered under this Subpart for the purpose of enhancing fishery resources and commercial and recreational fishing opportunities.

(2) "Commission" means the Louisiana Wildlife and Fisheries Commission.

(3) "Department" means the Louisiana Department of Wildlife and Fisheries.

(4) "Geological Survey" means the Louisiana Geological Survey.

**Act 100**

**1986 REGULAR SESSION**

(5) "Initiative" means the Artificial Reef Initiative at Louisiana State University, which is developing a Louisiana Artificial Reef Development Plan.

(6) "National Fishing Enhancement Act" means the federal artificial reef development legislation, PL 98-623, Title II.

(7) "Reef materials" means any materials allowed under the National Artificial Reef Plan, adopted pursuant to the National Fishing Enhancement Act for construction of artificial reefs.

(8) "Secretary" means the secretary of the Louisiana Department of Wildlife and Fisheries.

(9) "Waters covered under this Act" means the navigable waters of Louisiana and waters of the federal fisheries conservation zone adjacent to Louisiana waters.

(10) "Wetland Resources" means the Center for Wetland Resources at Louisiana State University.

**§639.4. Establishment of standards**

Artificial reefs in waters covered under this Act shall be sited, constructed, and subsequently maintained, monitored, and managed based upon the best scientific information available; and, in a manner which shall:

(1) Enhance and conserve fishery resources to the maximum extent practicable.

(2) Facilitate access and utilization by Louisiana recreational and commercial user groups.

(3) Minimize conflicts among competing uses of waters covered under this Act and the resources in such waters.

(4) Minimize environmental risks and risks to personal and public health and property.

(5) Be consistent with generally accepted principles of international law and national fishing law, and not create any unreasonable obstructions to navigation.

§639.5. Artificial Reef Development Program; authorities and responsibilities of cooperating agencies

A. There is hereby created the Louisiana Artificial Reef Development Program, hereinafter called the "program", to promote, develop, maintain, monitor, and enhance the artificial reef potential in the waters covered under this Act. The department, geological survey, and wetland resources shall be primary participants in this program and shall operate out of the Artificial Reef Development Fund under the direction of the Louisiana Wildlife and Fisheries Commission, hereinafter called the "commission".

B. The department shall administer and enforce the program as provided in this Subpart and in accordance with the National Fishing Enhancement Act. The department shall plan and review permit applications with advice from wetland resources; coordinate with relevant state and federal agencies; hold joint public hearings on proposed reefs; oversee maintenance and placement requirements of the reefs; and develop additional technical information needed to carry out the program.

C. The Center for Wetland Resources shall provide technical support to the department for program development. The center shall additionally:

(1) Prepare, update, and provide the department with technical, biological, and operational criteria for site selection and development.

(2) Assist the department in preparing permit applications for artificial reefs.

(3) Assist in biological monitoring.

(4) Evaluate and recommend reef sites.

(5) Evaluate reef potential and design.

(6) Update exclusion mapping.

(7) Promote public awareness of the program.

D. Geological Survey shall provide geotechnical support for reef siting by determining bottom suitability and identifying geologic hazards, evaluating the potential for future oil, gas, and other mineral production in reef sites, and by analyzing the potential for using artificial reefs to supplement the state's coastal protection effort as described in the Coastal Environment Protection Master Plan. Geological Survey shall also serve as liaison with the United States Department of the Interior regarding the interaction of the program with federal outer continental shelf leasing and production activities.

E. The Louisiana Sea Grant College Program shall coordinate fisheries research projects that might be proposed by Louisiana universities to support the program.

§639.6. Louisiana Artificial Reef Development Council

A. To oversee the program, there is hereby created the Louisiana Artificial Reef Development Council, hereinafter referred to as the "council", which shall be within the Louisiana Department of Wildlife and Fisheries. The council will be composed of the secretary of the Department of Wildlife and Fisheries, the director of the Geological Survey, and the dean of the Center for Wetland

Resources at Louisiana State University, or their designees. The council shall select a chairman.

B. The council is empowered to oversee development and implementation of the Louisiana Artificial Reef Development Plan. The council is charged with providing guidance to the commission and department on policy and procedural matters concerning the program and shall make recommendations to the department regarding the allocation of funds to various program components.

§639.7. Preparation of the Louisiana Artificial Reef Development Plan

A. The Louisiana Artificial Reef Initiative is directed to complete its work on the Louisiana Artificial Reef Development Plan, hereinafter called the "plan", within one year of the effective date of this Act.

B. The initiative shall present the plan to the council for approval. Upon unanimous approval by the council, and after review by the department, the plan shall be presented by October 1, 1987, to the House and Senate Natural Resources Committees for their approval.

C. All artificial reefs developed in state waters shall be consistent with the approved plan. State agency comments and recommendations on artificial reefs in federal waters shall also be consistent with the approved plan.

D. The plan shall include:

(1) Operational guidelines for the program, including specific participant roles and projected funding requirements for program elements.

(2) Geographic, hydrographic, geological, biological, ecological, social, economic, and other criteria for permitting and siting artificial reefs.

(3) Design, material, and other criteria for establishing, constructing, and maintaining artificial reefs.

(4) Mechanisms and methodologies for monitoring artificial reefs in compliance with the requirements of permits issued under Section 205 of the National Fishing Act.

(5) Mechanisms and methodologies for managing the use of artificial reefs.

(6) An exclusionary map which depicts priority areas for artificial reef development consistent with this Act and the National Fishing Enhancement Act.

(7) Provisions for updating the plan based on findings of the Artificial Reef Development Program.

(8) Provisions for managing the Reef Fund in a manner which will assure successful program implementation.

\$639.8. Department of Wildlife and Fisheries; Artificial Reef Development Fund

A. The secretary is authorized to accept and receive grants, donations of monies or materials, and other forms of assistance from private and public sources which are provided to the state for the purpose of siting, designing, constructing, monitoring, and otherwise managing an artificial reef system.

B. Any funds received by the department pursuant to the provisions and purposes of this Subpart shall be deposited immediately upon receipt into the state treasury.

C. There is hereby established a fund in the state treasury to be known as the Artificial Reef Development Fund, hereinafter referred to as the "Reef Fund" or "Fund", into which the state treasurer shall each fiscal year, and beginning with the 1986-87 Fiscal Year, deposit the funds received as provided in R.S. 56:639.8(A) and (B), after those revenues have been deposited in the Bond Security and Redemption Fund. Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state that become due and payable within each fiscal year, the treasurer, prior to placing such funds in the state general fund, shall pay into the Reef Fund an amount equal to the funds deposited by the department into the treasury as provided in Subsection B. The monies in the Reef Fund shall be used solely as provided by Subsection E herein and only in the amounts appropriated by the legislature. All unexpended and unencumbered monies in the Reef Fund at the end of the fiscal year shall remain in the fund. The monies in the fund shall be invested by the state treasurer in the same manner as monies in the state general fund, and interest earned on the investment of these monies shall be credited to the fund, again, following compliance with the requirement of Article VII, Section 9(B) of the Louisiana Constitution, relative to the Bond Security and Redemption Fund.

D. The council shall review and comment on proposed expenditures from the fund at the time of budget preparation by the department. The department shall maintain records of the sources of money received and the purpose therefor, as well as the person or persons to whom money is paid and the purpose therefor.

Vouchers or receipts shall be kept for all money paid out. The department shall employ such personnel as are necessary to meet the department's responsibilities under the program. The department shall allocate from the fund an amount sufficient to pay the salaries of personnel assigned to or responsible for the conduct of the program and shall allocate such amount as necessary for related operating expenses. Money appropriated or otherwise made available to the participants in the program for authorized purposes shall be withdrawn from the treasury on warrant of the secretary or his designee.

E. Monies may be withdrawn directly from the Reef Fund for the operation of the program as described in R.S. 56:639.5, including administrative and field support for the permitting, establishing, monitoring, and maintenance of artificial reefs established pursuant to this Subpart until such time that the council determines that the annual interest earnings from the fund are sufficient to run the program.

F. The secretary shall insure that the Reef Fund contains sufficient reserves to operate the program in a manner consistent with the state plan.

G. In future years, if interest income exceeds operational costs, marine fisheries research and habitat enhancement projects may be funded through the department, the Louisiana Sea Grant College Program, and the Coastal Environment Protection Program within the Geological Survey.

§639.9. Permitting for the construction and management of artificial reefs

A. The state of Louisiana is empowered to serve as permittee for artificial reefs in waters covered under this Act, provided such reefs are consistent with and established within the guidelines of this Subpart and the National Fishing Enhancement Act. The secretary is hereby empowered to administer and enforce the program for the state of Louisiana.

B. In acquiring necessary federal permits for artificial reefs, the secretary or his designee shall:

(1) Consult with and consider the views of appropriate federal agencies, state, and local governments, and other interested parties.

(2) Ensure that the provisions for siting, constructing, monitoring, maintaining, and managing any artificial reef developed pursuant to this Subpart be consistent with the criteria and standards established under this Subpart and the National Fishing Enhancement Act.

(3) Ensure that title to any artificial reef component or construction material is unambiguous.

(4) Consider the National Artificial Reef Plan developed under Section 204 of the National Fishing Enhancement Act, and notify the secretary of the United States Department of Commerce of any need to deviate from that plan. The secretary of the Department of Wildlife and Fisheries, in consultation with the other members of the council, shall also review and comment on other artificial reef permit applications to insure that artificial reef permits sought by groups other than Louisiana are consistent

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with the state plan developed under this Subpart and the National Fishing Enhancement Act.

§639.10. Liability

A. The department, the state of Louisiana and its agencies, and any insurer of these groups shall not be liable for damages caused by activities required to be undertaken under the terms and conditions of state and federal permits acquired for reef development.

B. Any person or company who has transferred title of artificial reef construction materials to the state of Louisiana shall not be liable for damages arising from the use of such materials in an artificial reef, if such materials meet applicable requirements of the National Artificial Reef Plan published under Section 204 of the National Fishing Enhancement Act, and United States Department of Interior regulations.

Section 2. R.S. 36:610(H) is hereby enacted to read as follows:

§610. Transfer of agencies to Department of Wildlife and Fisheries

\* \* \*

H. The Louisiana Artificial Reef Development Council (R.S. 56:639.6) is placed within the Department of Wildlife and Fisheries and shall exercise and perform its powers, duties, functions, and responsibilities in the manner provided for agencies transferred in accordance with Part III of Chapter 22 of this Title.

Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana.

Approved June 23, 1986.

APPENDIX IV

COORDINATES OF ARTIFICIAL REEF PLANNING AREAS,  
OFFSHORE LOUISIANA, PHASE I

West Cameron Planning Areas

Loran C	Latitude
W-11210-11242	28°01.3'N-28°11.5'N
X-26152-26250	Longitude
Y-46710-46742	93°16.6'W-93°21.3'W

East Cameron Planning Area

Loran C	Latitude
W-11226-11263	28°23'N-28°30.8'N
X-26640-26770	Longitude
Y-46752-46778	92°34'W-92°43.5'W

South Marsh Island (Block 76) Planning Area

Loran C	Latitude
W-11293-11338	28°31.8'N-28°39.4'N
X-27105-27220	Longitude
Y-46760-46788	91°53.2'W-92°01.2'W

South Marsh Island (Block 146) Planning Area

Loran C	Latitude
W-11335-11383	28°12.4'N-28°19.7'N
X-26945-27080	Longitude
Y-46702-46730	91°58.2'W-92°08'W

Eugene Island Planning Area

Loran C	Latitude
W-11462-11551	28°03.2'N-28°10.3'N
X-27237-27455	Longitude
Y-46642-46681	91°17'W-91°33.9'W

South Timbalier Planning Area

Loran C	Latitude
W-11728-11790	28°36.70'N-28°42.24'N
X-28185-28285	Longitude
Y-46719-46745	90°8.64'W-90°17.5'W

West Delta Planning Area

Loran C	Latitude
W-11842.5-11977	28°53.1'N-29°00'N
X-28510-28705	Longitude
Y-46762.5-46800	89°35.1'W-89°51.2'W

Mass Pass Planning Area

Loran C	Latitude
W-12297-12437	29°14.2'N-29°19.8'N
X-29235-29390	Longitude
Y-46826-46879	88°35.7'W-88°50.4'W

APPENDIX V

FEDERAL REGULATIONS FOR PERMITTING  
ARTIFICIAL REEFS

**Federal Register**

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**Thursday  
November 13, 1988**

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**Part II**

**Department of  
Defense**

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**Corps of Engineers, Department of the  
Army**

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**33 CFR Parts 320 through 330  
Regulatory Programs of the Corps of  
Engineers; Final Rule**

## DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Parts 320, 321, 322, 323, 324, 325, 326, 327, 328, 329 and 330

Final Rule for Regulatory Programs of the Corps of Engineers

AGENCY: Corps of Engineers, Army Department, DOD.

ACTION: Final rule.

**SUMMARY:** We are hereby issuing final regulations for the regulatory program of the Corps of Engineers. These regulations consolidate earlier final, interim final, and certain proposed regulations along with numerous changes resulting from the consideration of the public comments received. The major changes include modifications that provide for more efficient and effective management of the decision-making processes, clarifications and modifications of the enforcement procedures, modifications to the nationwide permit program, revision of the permit form, and implementation of special procedures for artificial reefs as required by the National Fishing Enhancement Act of 1984.

EFFECTIVE DATE: January 12, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Sam Collinson or Mr. Bernie Goode, HQDA (DAEN-CWO-N), Washington, DC 20314-1000, (202) 272-0198.

## SUPPLEMENTARY INFORMATION

## Consolidation of Corps Permit Regulations

These final regulations consolidate and complete the six following rulemaking events affecting the Corps regulatory program:

1. *Interim Final Regulations.* These regulations contained Parts 320-330 and were published (47 FR 31794) on July 22, 1982, to incorporate policy and procedural changes resulting from legislative, judicial, and administrative actions that had occurred since the previous final regulations had been published in 1977. Because it had been almost two years since we had proposed changes to the 1977 regulations, we published the 1982 regulations as "interim final" and asked for public comments. We received nearly 200 comments.

2. *Proposed Regulatory Reform Regulations.* On May 12, 1983, we published (48 FR 21498) proposed revisions to the interim final regulations to implement the May 7, 1982, directives of the Presidential Task Force on Regulatory Relief. The Task Force

directed the Army to reduce uncertainty and delay, give the states more authority and responsibility, reduce conflicting and overlapping policies, expand the use of general permits, and redefine and clarify the scope of the permit program. Since these regulations proposed changes to our existing nationwide permits and the addition of two new nationwide permits, a public hearing was held in Washington, DC, on October 12, 1983, to obtain comments on these proposed changes. As a result of the public comments received, nearly 500 in response to the proposed regulations and 22 at the public hearing, we have determined that some of the proposed revisions should be adopted and some should not. We have adopted some of the provisions that were designed to clarify policies for evaluating permit applications, to revise certain permit processing procedures, to add additional conditions to existing nationwide permits, and to modify certain nationwide permit procedures. We have not adopted some of the other proposed changes, including the two proposed new nationwide permits.

3. *Settlement Agreement Final Regulations.* On October 5, 1984, we published (49 FR 39478) final regulations to implement a settlement agreement reached in a suit filed by 18 environmental organizations in December of 1982 against the Department of the Army and the Environmental Protection Agency (*NWF v. Marsh*) concerning several provisions of the July 22, 1982, interim final regulations. The court approved the settlement agreement on February 10, 1984, and on March 29, 1984, we published (49 FR 12860) the implementing proposed regulations. We received over 150 comments on these proposed regulations covering a full range of views. Those comments which were applicable to the provisions of the March 29, 1984, proposals were considered and addressed in the final regulations published on October 5, 1984. The remaining comments have been considered in the development of the final regulations we are issuing today.

In the October 5, 1984, final rule there were several new provisions relating to the 404(b)(1) guidelines. In 33 CFR 320.4(a)(1) we clarified the fact that no 404 permit can be issued unless it complies with the 404(b)(1) guidelines.

If a proposed action complies with the guidelines, a permit will be issued unless the district engineer determines that it will be contrary to the public interest. In 33 CFR 323.6(a) we stated that district engineers will deny permits for discharges which fail to comply with

the 404(b)(1) guidelines, unless the economic impact on navigation and anchorage necessitates permit issuance pursuant to section 404(b)(2) of the Clean Water Act. Although no 404 permit can be issued unless compliance with the 404(b)(1) guidelines is demonstrated (i.e., compliance is a prerequisite to issuance), the 404(b)(1) evaluation is conducted simultaneously with the public interest review set forth in 33 CFR 320.4(a).

4. *Proposed Permit Form Regulations.* On May 23, 1985, we published (50 FR 21311) proposed revisions to 33 CFR Part 325 (Appendix A), which contains the standard permit form used for the issuance of Corps permits and the related provisions concerning special conditions. This proposal provided for the complete revision of the permit form and its related provisions to make them easier for permittees to understand. General permit conditions were written in plain English and greatly reduced in number; unnecessary material was deleted; and material which is informational in nature was reformatted under a "FURTHER INFORMATION" heading. We received 18 comments on this proposal.

5. *Proposed Regulations to Implement the National Fishing Enhancement Act of 1984 (NFEA).* On July 28, 1985, we published (50 FR 30479) proposed regulations to implement a portion of the Corps regulatory responsibilities pursuant to the NFEA. Specialized procedures relative to the processing of Corps permits for artificial reefs were proposed for inclusion in Parts 322 and 325. Eight organizations commented on these proposed regulations. The NFEA also authorizes the Secretary of the Army to assess a civil penalty on any person who, after notice and an opportunity for a hearing, is found to have violated any provision of a permit issued for an artificial reef. Procedures for implementing such civil penalties will be proposed at a later date. In addition, we are hereby notifying potential applicants for artificial reef permits that the procedures contained in Part 323 relating to the discharge of dredged or fill materials and those in Part 324 relating to the transportation of dredged material for the purpose of dumping in ocean waters will be used in the processing of artificial reef permits when applicable.

6. *Proposed Regulations (Portion of Part 323 and All of Part 328).* On March 20, 1988, we published (51 FR 9891) a proposed change to 33 CFR 323.2(d), previously 323.2(j), to reflect the Army's policy regarding *de minimis* or incidental soil movements occurring

during normal dredging operations and a proposed, complete revision of the Corps of Engineers enforcement procedures (33 CFR Part 329). Seventeen comment letters were received on these proposed regulations. These comments and the resulting changes reflected in the final regulations for § 329.2(d) and Part 329 are discussed in detail below.

#### Environmental Documentation

We have determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment. Appropriate environmental documentation has been prepared for all permit decisions. Environmental assessments for each of the nationwide permits previously issued or being modified today are available from the Corps of Engineers. You may obtain these assessments by writing to the address listed in this preamble. Considering the potential impacts, we have determined that none required an environmental impact statement.

#### Discussion of Public Comments and Changes

##### Part 320—General Regulatory Policies

**Section 320.1(a)(6):** In order to provide clarity to the public, we have added a provision to codify existing practice that when a district engineer makes certain determinations under these regulations, the public can rely on that determination as a Corps final agency action.

**Section 320.3(o):** The National Fishing Enhancement Act of 1984 has been added to the list of related laws in § 320.3.

**Section 320.4:** In the May 12, 1983, proposed rule and the March 29, 1984, proposed rule we proposed changes to §§ 320.4(a)(1)—public interest review, 320.4(b)(5)—effect on wetlands, 320.4(c)—fish and wildlife, 320.4(g)—consideration of property ownership, and 320.4(j)—other Federal, state or local requirements. Changes to these paragraphs were adopted in the October 5, 1984, final rule. The various comments relating to these proposals have been fully discussed in the October 5, 1984 final rule (49 FR 39478).

**Section 320.4(a)(3):** Many commenters objected, some strongly, to the deletion in the October 5, 1984, final regulations of the term "great weight" from § 320.4(c), the paragraph concerning the consideration of opinions expressed by fish and wildlife agencies. Many stated that fish and wildlife agencies had the expertise and knowledge to know the impact of work in wetlands; therefore, their opinions should be given strong

consideration. Some commenters supported removal of the "great weight" statement expecting less value would be given fish and wildlife agency views. It is not our intention to reduce or discount the value or expertise of fish and wildlife agency comments or those of any other experts in any field. Comments also varied from support of objection to the deletion of the "great weight" statement from the other policy statements such as energy and navigation in § 320.4. Therefore, we added a new paragraph (a)(3) to clarify our position on how we consider comments from the public, including those from persons or agencies with special expertise on particular factors in the public interest review.

**Section 320.4(b)(1):** One commenter objected to the placement of the word "some" in this paragraph as a rewrite of E.O. 11980 which places no qualifier on "wetlands" indicating that all wetlands are vital. We have found through experience in administering the Section 404 permit program that wetlands vary in value. While some are vital areas, others have very little value; however, most are important. We recognize that "some wetlands are vital . . ." is being read by some people as "Some wetlands are important . . ." This was not our intent. To avoid this confusion we have revised this paragraph by deleting "some wetlands are vital areas . . ." and indicating that "most" wetlands are important.

**Section 320.4(b)(2)(vi):** We have included in the list of important wetlands those wetlands that are ground water discharge areas that maintain minimum baseflows important to aquatic resources. Scientific research now indicates that wetlands more often serve as discharge areas than recharge areas. Those discharge areas which are necessary to maintain a minimum baseflow necessary for the continued existence of aquatic plants and animals are recognized as important.

**Section 320.4(b)(2)(viii):** We have included in the list of important wetlands those which are unique in nature or scarce in quantity to the region or local area.

**Section 320.4(d):** We have revised this paragraph to clarify that impacts from both point source and non-point source pollution are considered in the Corps public interest review. However, section 208 of the Clean Water Act provides for control of non-point sources of pollution by the states.

**Section 320.4(j)(1):** Clarifying language has been added to this section to eliminate confusion regarding denial procedures when another Federal, state,

and/or local authorization or certification has been denied.

**Section 320.4(p):** Some commenters felt that environmental considerations should take precedence over other factors. Other commenters believed that guidance should be given as to who determines whether there are environmental benefits to a project. Many commenters indicated that the regulation does not define the possible range of environmental benefits that will be considered. Environmental benefits are determined by the district engineer and the district staff based on responses received from the general public, special interest groups, other government agencies and staff evaluation of the proposed activity. Defining the possible range of environmental benefits would be almost impossible to cover in the rules in sufficient detail, since circumstances vary considerably for each permit application. After considering all the comments we have decided to make the change as proposed on May 12, 1983.

**Section 320.4(q):** Some commenters believed that this rule would distort review criteria by inserting inappropriate economic assumptions and minimizing environmental criteria. Some commenters suggested that the Corps revise this paragraph to include a provision to challenge an applicant's economic data and that of governmental agencies as well. Other commenters believe that economic factors do not belong in these regulations since the intent of the Clean Water Act is: "to restore and maintain the chemical, physical, and biological integrity of the nation's waters"; therefore, any regulation under the CWA should have, as its primary objective, provisions which give environmental factors the greatest weight. They were concerned that this part may be applied to allow economic benefits to offset negative environmental effects. Some commenters, however, believed that the Corps should assume that projects proposed by state and local governmental interests and private industry are economically viable and are needed in the marketplace. They also believed that the Corps and other governmental agencies should not engage in detailed economic evaluations. Economics has been included in the Corps list of public interest factors since 1970. However, there has never been a specific policy on economics in the regulations. The Corps generally accepts an applicant's determination that a proposed activity is needed and will be economically viable, but makes its own decision on whether

a project should occur in waters of the U.S. The district engineer may determine that the impacts of a proposed project on the public interest may require more than a cursory evaluation of the need for the project. The depth of the evaluation would depend on the significance of the impacts and in unusual circumstances could include an independent economic analysis. The Corps will balance the economic need for a project along with other factors of the public interest. Accordingly, § 320.4(q) has been modified from the proposed rule to provide that the district engineer may make an independent review of the need for a project from the perspective of the public interest.

**Section 320.4(r):** Many comments were offered as to the intent, scope and implementation of the proposed mitigation policy. Comments were almost equally divided between those who felt that the policy should be expanded and those that felt it should be more limited. The issues that were raised include: mitigation should not be used to outweigh negative public interest factors; mitigation should not be integrated into the public interest review; mitigation should be on-site to the maximum extent practicable; off-site mitigation extends the range of concerns beyond those required by Section 404. A wide range of views were expressed on our proposed mitigation policy, but virtually all commenters expressed need for a policy. The Corps has been requiring mitigation as permit conditions for many years based on our regulations and the 404(b)(1) guidelines. Because of the apparent confusion on this matter, we have decided to clarify our existing policy at 320.4(r).

The concept of "mitigation" is many-faceted, as reflected in the definition provided in the Council on Environmental Quality (CEQ) NEPA regulations at 40 CFR 1508.20. Viewing "mitigation" in its broadest sense, practically any permit condition or best management practice designed to avoid or reduce adverse effects could be considered "mitigation." Mitigation considerations occur throughout the permit application review process and are conducted in consultation with state and Federal agencies responsible for fish and wildlife resources. District engineers will normally discuss modifications to minimize project impacts with applicants at pre-application meetings (held for large and potentially controversial projects) and during the processing of applications. As a result of these discussions, district engineers may condition permits to

require minor project modifications, even though that project may satisfy all legal requirements and the public interest review test without those modifications.

For applications involving Section 404 authority, mitigation considerations are required as part of the Section 404(b)(1) guidelines analysis; permit conditions requiring mitigation must be added when necessary to ensure that a project complies with the guidelines. To emphasize this, we have included a footnote to § 320.4(r) regarding mitigation requirements for Section 404, Clean Water Act, permit actions. Some types of mitigation measures are enumerated in Subpart H of the guidelines. Other laws such as the Endangered Species Act may also lead to mitigation requirements in order to ensure that the proposal complies with the law. In addition to the mitigation developed in preapplication consultations and through application of the 404(b)(1) guidelines and other laws, these regulations provide for further mitigation should the public interest review so indicate.

One form of mitigation is "compensatory mitigation," defined at 40 CFR 1508.20(e) to mean "compensating for the impact by replacing or providing substitute resources or environments." Federal and state natural resource agencies sometimes ask the Corps to require permit applicants to compensate for wetlands to be destroyed by permitted activities. Such compensatory mitigation might be provided by constructing or enhancing a wetland; by dedicating wetland acreage for public use; or by contributing to the construction, enhancement, acquisition or preservation of such "mitigation lands." Compensatory mitigation of this type is often referred to as "off-site" mitigation. However, it can be provided either on-site or off-site. Such mitigation can be required by permit conditions only in compliance with 33 CFR 325.4, and specifically with 33 CFR 325.4(a)(3). In addition to those restrictions, the Corps has for many years declined to use, and does now decline to use, the public interest review to require permit applicants to provide compensatory mitigation unless that mitigation is required to ensure that an applicant's proposed activity is not contrary to the public interest. If an applicant refuses to provide compensatory mitigation which the district engineer determines to be necessary to ensure that the proposed activity is not contrary to the public interest, the permit must be denied. If an applicant voluntarily offers to provide

compensatory mitigation in excess of the amount needed to find that the project is not contrary to the public interest, the district engineer can incorporate a permit condition to implement that mitigation at the applicant's request.

**Part 321—Permits for Dams and Dikes in Navigable Waters of the United States**

The Secretary of the Army delegated his authority under Section 9 of the Rivers and Harbors Act of 1890, 33 U.S.C. 401 to the Assistant Secretary of the Army (Civil Works). The Assistant Secretary in turn delegated his authority under Section 9 for structures in intrastate navigable waters of the United States to the Chief of Engineers and his authorized representative. District engineers have been authorized in 33 CFR 325.8 to issue or deny permits for dams or dikes in intrastate navigable waters of the United States" under Section 9 of the Rivers and Harbors Act of 1890. This section of the regulation and §§ 325.5(d) and 325.8(a) have been revised to reflect this delegation.

**Part 322—Permits for Structures or Work-in or Affecting Navigable Waters of the United States**

**Section 322.2(a):** We have revised the term "navigable waters of the United States" to reference 33 CFR Part 329 since it and all other terms relating to the geographic scope of the Section 10 program are defined at 33 CFR Part 329.

**Section 322.2(b):** Commenters on the definition of structures indicated that several terms needed further amplification. It was suggested that the term "boom" be defined to exclude a float boom, as would be used in front of a spillway. The term was not redefined because those dams constructed in Section 10 waters do require a permit for a float boom. However, most dams in the United States are constructed in non-Section 10 waters and do not require a permit for a boom (floating or otherwise) unless it involves the discharge of dredged or fill material. It was suggested that the term "obstacle or obstruction" be modified to reinstitute the language from the July 19, 1977, final regulations. We have adopted the suggestion which will clarify our intent that obstacles or obstructions, whether permanent or not, do require a permit; it will also assist in jurisdictional decisions on enforcement. It was suggested that "boat docks" and "boat ramps" be included in the list of structures, since these are frequently proposed structures. These have been included. It was suggested that the term "artificial gravel island" be added, as

Congress, by Section 4(e) of the Outer Continental Shelf Lands Act of 1953, extended the regulatory program to the Outer Continental Shelf, and specifically cited artificial islands as falling under Section 10 jurisdiction. This type of structure is also constructed on state lands within the territorial sea. Accordingly, artificial islands have been included.

*Section 322.2(c):* Two commenters discussed the definition of "work"; one stated that it was too broad and the other that it should be expanded. The present definition of the term "work" has remained unchanged for many years and has achieved general acceptance by the regulators and those requiring a permit. The present language has been retained.

*Sections 322.2(f)(2) and 323.2(n)(2):* Both of these sections are concerned with the definition of general permits. Several commenters expressed support for the additional criteria contained in the May 12, 1983 proposed rule. Other commenters expressed concern that the proposed criteria were illegal. Some commenters believed that the proposal would amount to a delegation of the Section 406 program to the states, and that this is not a prerogative of the Corps of Engineers. Many commenters expressed serious concern that state programs were not comprehensive enough to properly represent the public interest review. Still others objected to the proposal because there were no assurances that the state approved projects themselves were "similar in nature" or would have "minimal adverse environmental effects"; those objections extended to the proposal to assess the impacts of the differences in the State/Corps decisions. Some commenters suggested that an automatic "kick-out" provision, whereby concerned agencies could cause the Corps to require an individual application on a case-by-case basis, may provide sufficient safeguards for the proposal to go forward. Some commenters suggested that a preferred approach to reducing duplication would be for the Corps to express, in its regulations, direction for its districts to vigorously pursue joint processing, permit consolidation, pre-application consultation, joint applications, joint public notices and special area management planning. This change was proposed in 1983. At that time we believed that additional flexibility in the types of general permits which could be developed was necessary to effectively administer the regulatory program. Our experience since then has shown that the existing definitions of general permit at both of these sections is flexible

enough to develop satisfactory general permits. Therefore we have decided not to adopt this proposed change. Because several definitions previously found in Part 323 have been moved to Part 328, § 323.2(n) has been redesignated § 323.2(b).

*Section 322.2(g):* This section adds the definition of the term "artificial reefs" from the National Fishing Enhancement Act and clarifies what activities or structures the term does not include. Two commenters suggested modifications, or clarifications, to this definition to ensure that old oil and gas production platforms can be considered for use as artificial reefs. We agree with their suggestion. The definition would include the use of some production platforms, either abandoned in place or relocated, as artificial reefs as long as they are evaluated and permitted as meeting the standards of Section 203 of the Act.

*Section 322.2(h):* This section was proposed to add the definition of the term "outer continental shelf" from the Outer Continental Shelf Lands Act (OCSLA). Two commenters suggested that the territorial sea off the Gulf Coast of Florida and Texas is greater than three nautical miles from the coast line. We have determined that this is not the case, and have decided not to include a definition of the term "outer continental shelf" in these regulations and to rely instead on the definition of this term that is already in the OCSLA.

*Sections 322.3(a) and 322.4:* Activities which do not require a permit have been moved from § 322.3 and included in § 322.4. The limitation of the applicability of Section 154 of the Water Resource Development Act of 1976 in certain waterbodies has been deleted because no such limitation exists in that Act.

*Section 322.5(b):* This section addresses the policies and procedures for processing artificial reef applications. One commenter suggested that the opportunity for a general permit should not be precluded by this section. A general permit for artificial reefs is not precluded by this regulation change. Furthermore, the opportunity for the issuance of general permits may be enhanced with the implementation of the National Artificial Reef Plan by the Department of Commerce.

*Section 322.5(b)(1):* This section cites the standards established under section 203 of the National Fishing Enhancement Act. These standards are to be met in the siting and construction, and subsequent monitoring and managing, of artificial reefs. Two commenters insisted that these should

be called goals or objectives, and several commenters said that more specific guidelines or criteria are needed to evaluate proposed artificial reefs against the standards or goals. Section 204 of the Act states that the Department of Commerce will develop a National Artificial Reef Plan which will be consistent with the standards established under Section 203, and will include criteria relating to siting, constructing, monitoring, and managing artificial reefs. Specification of such criteria in these rules would be inappropriate in view of the intent of Congress to have the Department of Commerce perform this function. The National Marine Fisheries Service (NMFS), acting for the Department of Commerce, has consulted with us in developing the National Artificial Reef Plan; and we will continue to consult with them to ensure permits are issued consistent with the criteria established in that plan. The Department of Commerce announced the availability of the National Artificial Reef Plan in the Federal Register on November 14, 1985.

The U.S. Coast Guard was particularly concerned that these rules be more specific with regard to information and criteria that will be used to ensure navigation safety and the prevention of navigational obstructions. Section 204 of the National Fishing Enhancement Act requires that the Department of Commerce consult the U.S. Coast Guard in the development of the National Artificial Reef Plan regarding the criteria to be established in the plan. One of the standards with which the criteria must be consistent is the prevention of unreasonable obstructions to navigation. In addition, the district engineer shall consult with any governmental agency or interested party, as appropriate, in issuing permits for artificial reefs. This includes pre-application consultation with the U.S. Coast Guard, and placing conditions in permits recommended by the U.S. Coast Guard to ensure navigational safety.

*Section 322.5(b)(2) and (3):* These sections state that the district engineer will consider the National Artificial Reef Plan, and that he will consult with governmental agencies and interested parties, as necessary, in evaluating a permit application. Two commenters supported this coordination. The NMFS requested notification of decisions to issue permits which either deviate from or comply with the plan. Paragraph (b)(2) requires the district engineer to notify the Department of Commerce of any need to deviate from the plan. In addition, the NMFS receives a monthly list of permit applications on which the

district engineer has taken final action. This should be sufficient notification for those permits which do not deviate from the plan.

**Section 322.5(b)(4):** Although some commenters strongly supported this section describing the liability of permittees authorized to build artificial reefs, several expressed concern that this provision was not clearly written or required specific criteria to assist the district engineer in determining financial liability. This paragraph has been rewritten to correspond closely with the wording in the National Fishing Enhancement Act, and examples of ways an applicant can demonstrate financial responsibility have been added.

**Section 322.5(g):** We have revised this paragraph on canals and other artificial waterways by eliminating procedural-only provisions which are redundant with requirements in 33 CFR Parts 328 and 329.

**Section 322.5(l):** A new section on fairways and anchorage areas has been added. This section was formerly found at 33 CFR 208.135. We are moving this provision to consolidate all of the permit regulations on structures to this part. We will delete 33 CFR 208.135 by separate notice in the Federal Register.

#### **Part 323—Permits for Discharges of Dredged or Fill Material Into Waters of the United States**

**Section 323.2:** Several commenters supported moving the definitions relating to waters of the United States to a separate paragraph. As proposed on May 12, 1983, we have moved the term "waters of the United States" and all other terms related to the geographic scope of jurisdiction of Section 404 of the CWA to 33 CFR Part 328 which is titled "Definition of the Waters of the United States." We believe that, by setting these definitions apart in a separate and distinct Part of the regulation and including in that Part all of the definitions of terms associated with the scope of the Section 404 permit program, we are better able to clarify the scope of our jurisdiction. We have not changed any existing definitions nor added any definitions proposed on May 12, 1983. Comments related to these definitions are addressed in Part 328 below.

We have not changed the definition of fill material at § 323.2(e). However, the Corps has entered into a Memorandum of Agreement with the Environmental Protection Agency to better identify the difference between section 402 and section 404 discharges under the Clean Water Act.

**Section 323.2(d)—Previously 323.2(j):** The proposed modification of this paragraph states that "*de minimis* or incidental soil movement occurring during normal dredging operations" is not a "discharge of dredged material," the term defined by this paragraph.

Right commenters raised concerns relating to this provision. Most of these supported the regulation of "*de minimis* or incidental soil movement occurring during normal dredging operations" in varying degrees. Two specifically expressed a belief that the fallback from dredging operations constituted a discharge within the intent of section 404 of the Clean Water Act. One of these stated that the proposed provision was contrary to a binding decision by the U. S. District Court for the Northern District of Ohio in *Reid v. Marsh*, No. C-81-690 (N. D. Ohio, 1984). Another commenter objected to the provision on the basis that it would force states that perceived a need to regulate dredging operations to regulate such activities under their National Pollutant Discharge Elimination System authority. The recommendations of the above group of commenters included the regulation of dredging activities on an individual or general permit basis or on a selective basis that would take into account the scopes and anticipated effects of the projects involved. Two commenters expressed concern over the fact that discharge activities such as the sidesteering of dredged material might be considered "soil movement" that was "incidental" to a "normal dredging operation." The final concern raised related to the list of dredging equipment cited as examples. This list was seen, alternatively, as too limited or as not limited enough in reference to the types of equipment that may be used in a "normal dredging operation." Four commenters supported the proposed provision as a reasonable interpretation of the section 404 authority of the Corps.

Section 404 clearly directs the Corps to regulate the discharge of dredged material, not the dredging itself. Dredging operations cannot be performed without some fallback. However, if we were to define this fallback as a "discharge of dredged material," we would, in effect, be adding the regulation of dredging to section 404 which we do not believe was the intent of Congress. We have consistently provided guidance to our field offices since 1977 that incidental fallback is not an activity regulated under section 404. The purpose of dredging is to remove material from the water, not to discharge material into the water. Therefore, the fallback in a "normal dredging operation" is incidental to the

dredging operation and *de minimis* when compared to the overall quantities removed. If there are tests involved, we believe they should relate to the dredging operator's intent and the result of his dredging operations. If the intent is to remove material from the water and the results support this intent, then the activity involved must be considered as a "normal dredging operation" that is not subject to section 404.

Based on the above discussion, we have not adopted any of the recommendations relating to the revision or deletion of this provision for the purpose of bringing about the regulation of "normal dredging operations" in varying degrees. We have replaced the "or" between the words "*de minimis*" and "incidental" with a comma to more clearly reflect the fact that the incidental fallback from a "normal dredging operation" is considered to be *de minimis* when compared to the overall quantities removed. In addition, we have deleted the examples of dredging equipment at the end of the proposed provision to make it clear that *de minimis* or incidental soil movement occurring during any "normal dredging operation" is not a discharge of dredged material. However, we wish to also make it clear that this provision applies only to the incidental fallback occurring during "normal dredging operations" and not to the disposal of the dredged material involved. If this material is disposed of in a water of the United States, by sidesteering or by other means, this disposal will be considered to be a "discharge of dredged material" and will be subject to regulation under section 404.

**Section 323.4:** We have made some minor corrections to this section to be consistent with EPA's permit exemption regulations at 40 CFR Part 233.

#### **Part 324—Ocean Disposal**

**Section 324.4(c):** The language of this section on the EPA review process has been rewritten to clarify the procedures the district engineer will follow when the Regional Administrator advises that a proposed dumping activity does not comply with the criteria established pursuant to section 102(a) of the Marine Protection, Research and Sanctuaries Act (MPRSA), or the restrictions established pursuant to section 102(c) thereof, in accordance with the provisions of 40 CFR 225.2(b).

#### **Part 325—Permit Processing**

Several minor changes have been made in this part. These changes involve requesting additional information from

an applicant, providing for a reasonable comment period, combining permit documentation, and documenting issues of national importance.

*Section 325.1(b):* This section has been rewritten to clarify the pre-application consultation process for major permit applications. No significant changes have been made in the content of this section.

*Section 325.1(d)(1):* One commenter on this content of applications paragraph asked that where, through experience, it has been found that specific items of additional information are routinely necessary for permit review, the district engineer should be allowed to develop supplemental information forms. Another observed that restricting production of local forms may inhibit joint permit application processes. If it becomes necessary to routinely request additional information, the Corps can change the application form, but that must be done at Corps headquarters with the approval of the Office of Management and Budget. This change does not place any additional restrictions on developing local forms. As is now the case, local forms may be developed for joint processing with a Federal or state agency.

*Section 325.1(d)(8):* This is a new section requiring an applicant to include provisions for siting, construction, monitoring and managing the artificial reef as part of his application for a permit. One commenter suggested that the criteria for accomplishing these activities must be completed in the National Artificial Reef Plan before establishment of such reefs can be encouraged. Another recommended that the regulation describe more specifically the information to be supplied by an applicant with regard to monitoring and maintaining an artificial reef. The plan includes general mechanisms and methodologies for monitoring the compliance of reefs with permit requirements, and managing the use of those reefs. It can be used as a guide for the information to be supplied by the permit applicant. Specific conditions for monitoring and managing, as well as for maintaining artificial reefs generally need to be site-specific and should be developed during permit processing.

The U.S. Coast Guard requested that they be provided copies of permit applications for artificial reefs, and that a permittee be required to notify the Coast Guard District Commander when reef construction begins and when it is completed so timely information can be included in notices to mariners. The district engineer may elect to consult with the Coast Guard, when appropriate, during the pre-application

phase of the permit process. At any rate, the Coast Guard will receive public notices of permit applications, and may make recommendations to ensure navigational safety on a case-by-case basis. Appropriate conditions can be added to permits to provide for such safety.

*Section 325.1(e):* Several commenters expressed concern with language changes requiring only additional information "essential to complete an evaluation" rather than the former requirement for information to "assist in evaluation of the application." They felt this change would reduce the data base on which decisions would be made. They indicated further that without necessary additional information, district engineers would not be able to make a reasonable decision, the public's ability to provide meaningful comments would be limited, and resource agencies would have to spend more time contacting the applicant and gathering information. They felt this could increase delays rather than limiting them. Several commenters asked that the regulations be altered to specifically require submission of information necessary for a 404(b)(1) evaluation. Similar concerns were expressed with the change stating that detailed engineering plans and specifications would not be required for a permit application. Commenters advised that without adequate plans or the ability to routinely require supplemental information it may be impossible to insure compliance with applicable water quality criteria or make reasonable permit decisions. Other commenters wanted further restrictions placed on the district engineer's ability to request additional information. Suggestions included altering the regulations to specify the type, need for, and level of detail which could be requested, and requiring the district engineer to prepare an analysis of costs and benefits of such information. Some commenters objected to requirements for providing information on project alternatives and on the source and composition of dredged or fill material.

This paragraph has been changed as proposed. The intent of this change was to assure that information necessary to make a decision would be obtained, while requests for non-essential information and delays associated with such requests would be limited.

*Section 325.2(a)(9):* The new requirement to document district engineer decisions contrary to state and local decisions was adopted essentially as proposed. The reference to state or local decisions in the middle of this paragraph incorrectly did not reference

§ 320.4(j)(4) in addition to § 320.4(j)(2). The adopted paragraph references state and local decisions in both of these paragraphs.

*Section 325.2(b)(1)(ii):* The May 12, 1983, proposed regulations sought to speed up the process by reducing the standard 60 day comment/waiver period to 30 days for state water quality certifications. Commenters on this paragraph offered a complete spectrum of views from strong support for the proposed changes to strong opposition to the proposal. Comments within this spectrum included opinions that: states must have 60 days; certification time should be the same as allowed by EPA (i.e. 6 months); the proposal is illegal; it conflicts with some state water quality certification regulations and procedures; and it would reduce state and public input to the decision-making process. Most states objected to this reduction with many citing established water quality certification procedures required by statute and/or regulations which require notice to the public (normally 30 days) and which allow requests for public hearings which cannot be completed within the 30-day period. We have, therefore, retained the 60 day period in the July 22, 1982, regulations. Some Corps districts have developed formal or informal agreements with the states, which identify procedures and time limits for submittal of water quality certifications and waivers. Where these are in effect, problems associated with certifications are minimized.

Many commenters objected to the May 12, 1983, proposal to delete from the July 22, 1982, regulations the statement, "The request for certification must be made in accordance with the regulations of the certifying agency." Deleting this statement will not delete the requirement that valid requests for certification must be made in accordance with State laws. However, we have found that, on a case-by-case basis in some states, the state certifying agency and the district engineer have found it beneficial to have some flexibility to determine what constitutes a valid request. Furthermore, we believe that the state has the responsibility to determine if it has received a valid request. If this statement were retained in the Corps regulation, it would require the Corps to determine if a request has been submitted in accordance with state law. To avoid this problem, we have decided to eliminate this statement.

*Section 325.2(d)(2):* Numerous commenters expressed concern with comment periods of less than 30 days. They were concerned that, in order to expedite processing times, 15 day

APPENDIX VI

PERMIT APPLICATION PROCEDURES PUBLISHED  
IN THE NATIONAL ARTIFICIAL REEF PLAN

# THE PERMIT APPLICATION

## General

The application form used to apply for a permit is Engineer Form 4345, *Application for a Department of the Army Permit*. You can obtain the application from one of the Corps of Engineers district regulatory offices listed in the back of this pamphlet. Some offices may use a slightly modified form for joint processing with a state agency; however, the required information is basically the same. It is important that you provide complete information in the requested format. If incomplete information is provided, processing of your application will be delayed. This information will be used to determine the appropriate form of authorization, and to evaluate your proposal. Some categories of activities have been previously authorized by nationwide or regional permits, and no further Corps approvals are required. Others may qualify for abbreviated permit processing, with authorizations in the form of letters of permission, in which a permit decision can usually be reached in less than 30 days. For other activities, a Public Notice may be required to notify Federal, state, and local agencies, adjacent property owners, and the general public of the proposal to allow an opportunity for review and comment or to request a public hearing. Most applications involving Public Notices are completed within four months and many are completed within 60 days.

The district engineer will begin to process your application immediately upon receipt of all required information. You will be sent an acknowledgement of its receipt and the application number assigned to your file. You should refer to this number when inquiring about your application. Your proposal will be reviewed, balancing the need and expected benefits against the probable impacts of the work, taking into consideration all comments received and other relevant factors. This process is called the *public interest review*. The Corps goal is to reach a decision regarding permit issuance or denial within 60 days of receipt of a complete application. However, some complex activities, issues, or requirements of law may prevent the district engineer from meeting this goal.

For any specific information on the evaluation process, filling out the application forms, or the status of your application, you should contact the regulatory branch of the Corps of Engineers district office which has jurisdiction over the area where you plan to do the work.

**Typical Processing Procedure for a Standard Individual Permit**

1. Preapplication consultation (optional)
2. Applicant submits ENG Form 4345 to district regulatory office\*
3. Application received and assigned identification number
4. Public notice issued (within 15 days of receiving all information)
5. 15 to 30 day comment period depending upon nature of activity
6. Proposal is reviewed\*\* by Corps and:
  - Public
  - Special interest groups
  - Local agencies
  - State agencies
  - Federal agencies
7. Corps considers all comments
8. Other federal agencies consulted, if appropriate
9. District engineer may ask applicant to provide additional information
10. Public hearing held, if needed
11. District engineer makes decision
12. Permit issued
  - or
  - Permit denied and applicant advised of reason

---

\*A local variation, often a joint federal-state application form may be submitted.

\*\*Review period may be extended if applicant fails to submit information or due to requirements of certain laws.

## Evaluation Factors

The decision whether to grant or deny a permit is based on a public interest review of the probable impact of the proposed activity and its intended use. Benefits and detriments are balanced by considering effects on items such as:

- conservation
- economics
- aesthetics
- general environmental concerns
- wetlands
- cultural values
- fish and wildlife values
- flood hazards
- floodplain values
- food and fiber production
- navigation
- shore erosion and accretion
- recreation
- water supply and conservation
- water quality
- energy needs
- safety
- needs and welfare of the people
- considerations of private ownership

The following general criteria will be considered in the evaluation of every application:

- the relative extent of the public and private need for the proposed activity;
- the practicability of using reasonable alternative locations and methods to accomplish the objective of the proposed activity; and
- the extent and permanence of the beneficial and/or detrimental effects which the proposed activity is likely to have on the public and private uses to which the area is suited.

### Section 404(b) (1) of the Clean Water Act

If your project involves the discharge of dredged or fill material, it will be necessary for the Corps to evaluate your proposed activity under the Section 404(b)(1) guidelines prepared by the Environmental Protection Agency. The guidelines restrict discharges into aquatic areas where less environmentally damaging, practicable alternatives exist.

## Forms and Permits

The following forms apply to the permit process:

### Application

The form that you will need to initiate the review process is ENG Form 4345 or a joint Federal-state application that may be available in your state. The appropriate form may be obtained from the district regulatory office which has jurisdiction in the area where your proposed project is located.

### Individual Permits

An individual permit may be issued as either ENG Form 1721, the standard permit, or as a Letter of Permission.

- A standard permit is one processed through the typical review procedures, (see page 7) which include public notice, opportunity for a public hearing, and receipt of comments. It is issued following a case-by-case evaluation of a specific activity.
- If work is minor or routine with minimum impacts and objections are unlikely, then it may qualify for a Letter of Permission (LOP). An LOP can be issued much more quickly than a standard permit since an individual public notice is not required. The District Engineer will notify you if your proposed activity qualifies for an LOP.

### General Permits

In many cases the formal processing of a permit application is not required because of general permits already issued to the public at large by the Corps of Engineers. These are issued on a regional and nationwide basis.

Separate applications may not be required for activities authorized by a general permit; nevertheless, reporting may be required. For specific information on general permits, contact a district regulatory office.

### ENG Form 4336

The third form, ENG Form 4336, is used to assist with surveillance for unauthorized activities. The form, which contains a description of authorized work, should be posted at the site of an authorized activity. If the Corps decides it is appropriate for you to post this form, it will be furnished to you when you receive your permit.

**Fees.** Fees are required for most permits. \$10.00 will be charged for a permit for a non-commercial activity; \$100.00 will be charged for a permit for a commercial or industrial activity. The district engineer will make the final decision as to the amount of the fee. Do not send a fee when you submit an application. When the Corps issues a permit, you will be notified and asked to submit the required fee payable to the Treasurer of the United States. No fees are charged for transferring a permit from one property owner to another, for Letters of Permission, or for any activities authorized by a general permit or for permits to governmental agencies.

## Instructions for Preparing an Application

The instructions given below, together with the sample application and drawings, should help in completing the required application form. If you have additional questions, do not hesitate to contact the district regulatory office.

### **Block Number 1. Application Number.**

Leave this block blank. When your completed application is received, it will be assigned a number for identification. You will be notified of the number in an acknowledgement letter. Please refer to this number in any correspondence or inquiry concerning your application.

**Block 2. Name and address of applicant(s).** Fill in name, mailing address, and telephone number(s) for all applicants. The telephone number(s) should be a number where you can be reached during business hours. If space is needed for additional names, attach a sheet of white, 8½ × 11 inch paper labeled "Block 2 Continued."

**Block 3. Name, address and title of authorized agent.** It is not necessary to have an agent represent you; however, if you do, fill in the agent's name, address, title and telephone number(s). If your agent is submitting and signing the application, you must fill out and sign the Statement of Authorization in Block 3.

**Block 4. Detailed description of proposed activity.** The written description and the drawings are the most important parts of the application. If there is not enough space in Block 4, (a), (b) or (c) attach additional sheet(s) of white, 8½ × 11 inch paper labeled "Block 4 Continued."

- a. **Activity.** Describe the overall activity. Give the approximate dimensions of structures, fills, excavations (lengths, widths, heights or depths).

b. **Purpose.** Describe the purpose, need and intended use (public, private, commercial, or other use) of the proposed activity. Include a description of related facilities, if any, to be constructed on adjacent land. Give the date you plan to begin work on the activity and the date work is expected to be completed.

c. **Discharge of Dredged or Fill Material.** If the activity will involve the discharge of dredged or fill material, describe the type (rock, sand, dirt, rubble, etc.), quantity (in cubic yards), and mode of transportation to the discharge site.

**Block 5. Names and addresses of adjoining property owners, lessees, etc. whose property adjoins the waterbody.** List complete names, addresses and zip codes of adjacent property owners (both public and private), lessee, etc., whose property also adjoins the waterbody or wetland, in order that they may be notified of the proposed activity. This information is usually available at the local tax assessor office. If more space is needed attach a sheet of white, 8½ × 11 inch paper labeled "Block 5 Continued."

**Block 6. Waterbody and location on waterbody where activity exists or is proposed.** Fill in the name of the waterbody and the river mile (if known) at the location of the activity. Include easily recognizable landmarks on the shore of the waterbody to aid in locating the site of the activity.

**Block 7. Location and land where activity exists or is proposed.** This information is used to locate the site. Give the street address of the property where the proposed activity will take place. If the site does not have a street address, give the best descriptive location (name or waterbody), names and/or numbers of roads or highways, name of nearest community or town, name of county and state, and directions, such as 2 miles east of Brown's Store on Route 105.

Do not use your home address unless that is the location of the proposed activity. Do not use a post office box number.

**Block 8. Information about completed activity.** Provide information about parts of the activity which may be complete. An activity may have been authorized by a previously issued permit, may exist from a time before a Corps permit was required or may be constructed on adjacent upland.

**Block 9. Information about approvals or denials by other government agencies.** You may need approval or certification from other Federal, interstate, state, or local government agencies for the activity described

in your application. Applications you have submitted, and approvals, certifications, or disapprovals that you have received should be recorded in Block 9. It is not necessary to obtain other Federal, state, and local permits before applying for a Corps of Engineers permit.

**Block 10. Signature of applicant or agent.** The application must be signed in Block 10 by the owner, lessee, or a duly authorized agent. The person named in Block 3 will be accepted as the officially designated agent of the applicant. The signature will be understood to be affirmation that the applicant possesses the requisite property interest to undertake the proposed activity.

**APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT**

(33 CFR 325)

OMB APPROVAL NO. 0702-0036  
Expires 30 June 1986

The Department of the Army permit program is authorized by Section 10 of the River and Harbor Act of 1899, Section 404 of the Clean Water Act and Section 103 of the Marine, Protection, Research and Sanctuaries Act. These laws require permits authorizing activities in or affecting navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters. Information provided on this form will be used in evaluating the application for a permit. Information in this application is made a matter of public record through issuance of a public notice. Disclosure of the information requested is voluntary; however, the data requested are necessary in order to communicate with the applicant and to evaluate the permit application. If necessary information is not provided, the permit application cannot be processed nor can a permit be issued.

One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

1. APPLICATION NUMBER (To be assigned by Corps)	3. NAME, ADDRESS, AND TITLE OF AUTHORIZED AGENT  None
2. NAME AND ADDRESS OF APPLICANT  Fred R. Harris 852 West Branch Road Blue Harbor, Maryland 21703  Telephone no. during business hours  A/C ( 301 ) 585-2779 (Residence) A/C ( ) (Office)	Telephone no. during business hours  A/C ( ) (Residence) A/C ( ) (Office)  Statement of Authorization: I hereby designate and authorize _____ to act in my behalf as my agent in the processing of this permit application and to furnish, upon request, supplemental information in support of the application.  SIGNATURE OF APPLICANT _____ DATE _____

4. DETAILED DESCRIPTION OF PROPOSED ACTIVITY

4a. ACTIVITY  
Build timber bulkhead and pier and fill.

4b. PURPOSE  
To provide boat access and prevent erosion of shoreline at my place of residence.

4c. DISCHARGE OF DREDGED OR FILL MATERIAL  
Approximately 200 cubic yards of upland fill will be placed between new bulkhead and existing shoreline.

5. NAMES AND ADDRESSES OF ADJOINING PROPERTY OWNERS, LESSEES, ETC., WHOSE PROPERTY ALSO ADJOINS THE WATERWAY

Mary L. Clark  
850 West Branch Road  
Blue Harbor, Maryland 21703

Harry N. Hampton  
854 West Branch Road  
Blue Harbor, Maryland 21703

(301) 585-8830

(301) 585-3676

6. WATERBODY AND LOCATION ON WATERBODY WHERE ACTIVITY EXISTS OR IS PROPOSED

West Branch of the Haven River on Blue Harbor.

7. LOCATION ON LAND WHERE ACTIVITY EXISTS OR IS PROPOSED

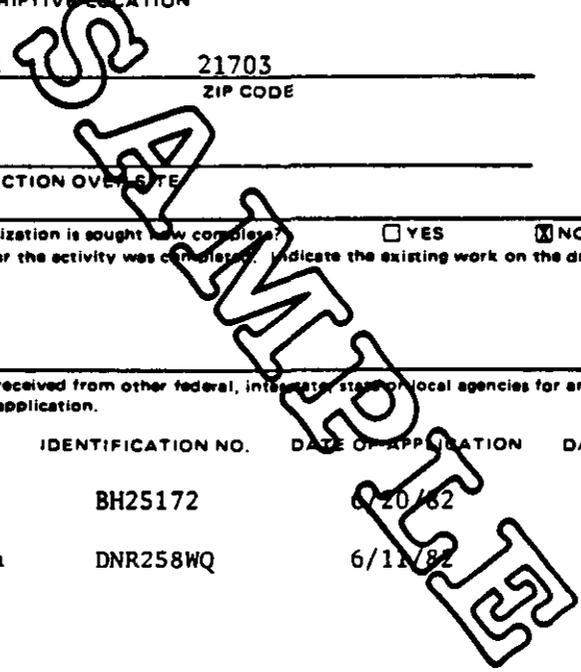
ADDRESS:

852 West Branch Road

STREET, ROAD, ROUTE OR OTHER DESCRIPTIVE LOCATION

King Edward, Maryland 21703  
COUNTY STATE ZIP CODE

Town of Blue Harbor  
LOCAL GOVERNING BODY WITH JURISDICTION OVER SITE



8. Is any portion of the activity for which authorization is sought now complete?  YES  NO  
If answer is "Yes" give reasons, month and year the activity was completed. Indicate the existing work on the drawings.

9. List all approvals or certifications and denials received from other federal, interstate, state or local agencies for any structures, construction, discharges or other activities described in this application.

ISSUING AGENCY	TYPE APPROVAL	IDENTIFICATION NO.	DATE OF APPLICATION	DATE OF APPROVAL	DATE OF DENIAL
Town of Blue Harbor	Zoning	BH25172	6/20/82	6/30/82	
Md DNR	Certification	DNR258WQ	6/11/82	8/12/82	

10. Application is hereby made for a permit or permits to authorize the activities described herein. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities or I am acting as the duly authorized agent of the applicant.

*M. R. Harris*  
SIGNATURE OF APPLICANT

Oct. 15, 1982  
DATE

\_\_\_\_\_  
SIGNATURE OF AGENT DATE

The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in Block 3 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of The United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

Do not send a permit processing fee with this application. The appropriate fee will be assessed when a permit is issued.

# DRAWINGS

## General Information

Three types of drawings—Vicinity, Plan, and Elevation—are required to accurately depict activities (See sample drawings on pages 16 and 17).

Submit one original, or good quality copy, of all drawings on 8½ × 11 inch white paper (tracing cloth or film may be used). Submit the fewest number of sheets necessary to adequately show the proposed activity. Drawings should be prepared in accordance with the general format of the samples, using block style lettering. Each page should have a title block. See check list below. Drawings do not have to be prepared by an engineer, but professional assistance may become necessary if the project is large or complex.

Leave a 1-inch margin at the top edge of each sheet for purposes of reproduction and binding.

In the title block of each sheet of drawings identify the proposed activity and include the name of the body of water; river mile (if applicable); name of county and state; name of applicant; number of the sheet and total number of sheets in set; and date the drawing was prepared.

Since drawings must be reproduced, use heavy dark lines. Color shading cannot be used; however, dot shading, hatching, or similar graphic symbols may be used to clarify line drawings.

## Vicinity Map

The vicinity map you provide will be printed in any public notice that is issued and used by the Corps of Engineers and other reviewing agencies to locate the site of the proposed activity. You may use an existing road map or U.S. Geological Survey topographic map (scale 1:24,000) as the vicinity map. Please include sufficient details

to simplify locating the site from both the waterbody and from land. Identify the source of the map or chart from which the vicinity map was taken and, if not already shown, add the following:

- location of activity site (draw an arrow showing the exact location of the site on the map).
- latitude, longitude, river mile, if known, and/or other information that coincides with Block 6 on the application form.
- name of waterbody and the name of the larger creek, river, bay, etc., that the waterbody is immediately tributary to.
- names, descriptions and location of landmarks.
- name of all applicable political (county, parish, borough, town, city, etc.) jurisdictions.
- name of and distance to nearest town, community, or other identifying locations.
- names or numbers of all roads in the vicinity of the site.
- north arrow.
- scale.

## Plan View

The plan view shows the proposed activity as if you were looking straight down on it from above. Your plan view should clearly show the following:

- Name of waterbody (river, creek, lake, wetland, etc.) and river mile (if known) at location of activity.
- Existing shorelines.
- Mean high and mean low water lines and maximum (spring) high tide line in tidal areas.
- Ordinary high water line and ordinary low water line if the proposed activity is located on a non-tidal waterbody.

- Average water depths around the activity.
- Dimensions of the activity and distance it extends from the high water line into the water.
- Distances to nearby Federal projects, if applicable.
- Distance between proposed activity and navigation channel, where applicable.
- Location of structures, if any, in navigable waters immediately adjacent to the proposed activity.
- Location of any wetlands (marshes, swamps, tidal flats, etc.)
- North arrow.
- Scale.
- If dredged material is involved, you must describe the type of material, number of cubic yards, method of handling, and the location of fill and spoil disposal area. The drawing should show proposed retention levees, weirs, and/or other means for retaining hydraulically placed materials.
- Mark the drawing to indicate previously completed portions of the activity.

### **Elevation and/or Cross Section View**

The elevation and/or cross section view is a scale drawing that shows the side, front, or rear of the proposed activity. If a section view is shown, it represents the proposed structure as it would appear if cut internally for display. Your elevation should clearly show the following:

- Water elevations as shown in the plan view.

- Water depth at waterward face of proposed activity or, if dredging is proposed, dredging and estimated disposal grades.
- Dimensions from mean high water line (in tidal waters) for proposed fill or float, or high tide line for pile supported platform. Describe any structures to be built on the platform.
- Cross section of excavation or fill, including approximate side slopes.
- Graphic or numerical scale.
- Principal dimensions of the activity.

### **Notes on Drawings\***

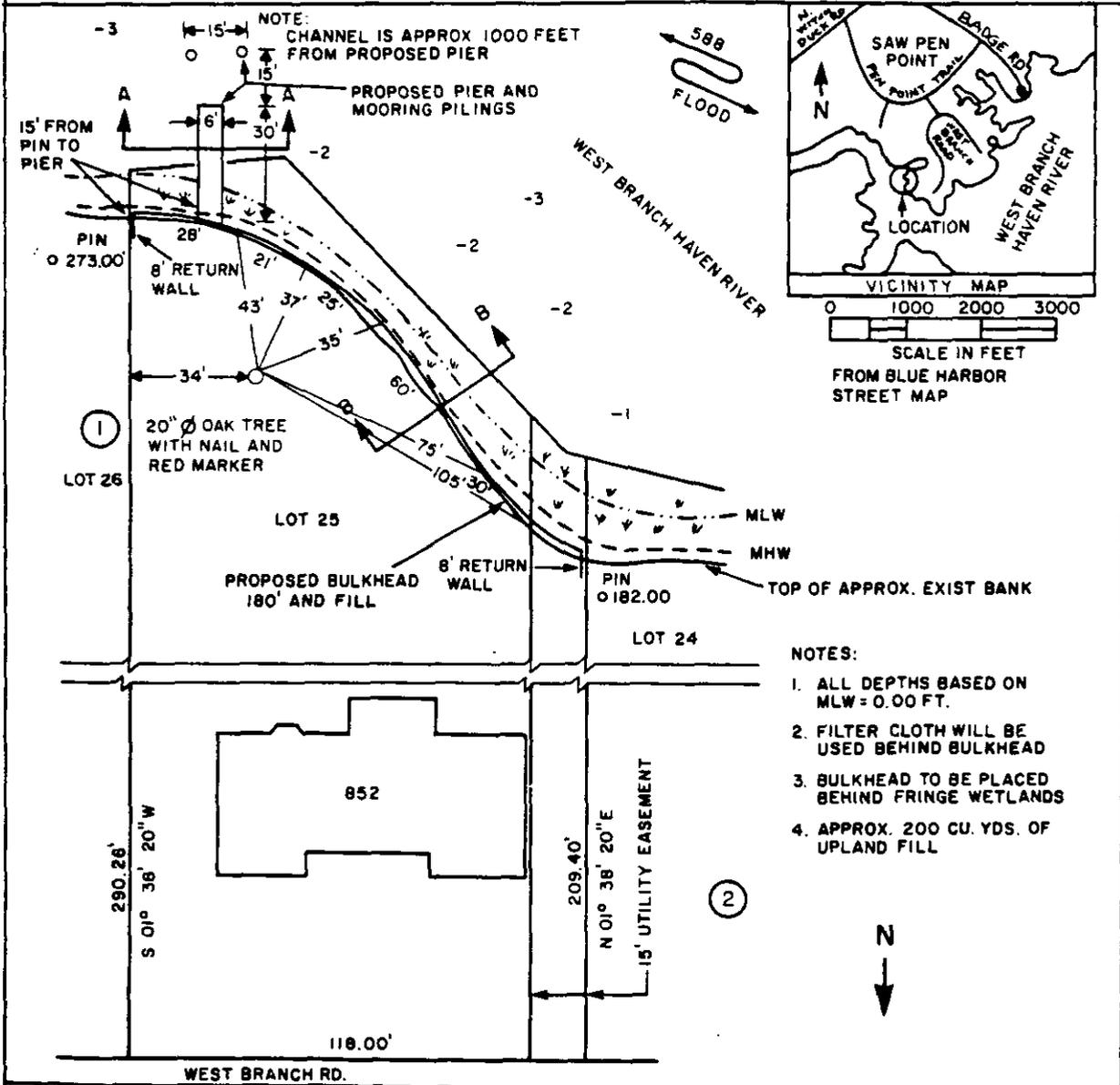
- Names of adjacent property owners who may be affected. Complete names and addresses should be shown in Block 5 on ENG Form 4345.
- Legal property description: Number, name of subdivision, block and lot number. Section, Township and Range (if applicable) from plot, deed or tax assessment.
- Photographs of the site of the proposed activity are not required; however, pictures are helpful and may be submitted as part of any application.

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\*Drawings should be as clear and simple as possible (i.e., not too "busy").

**SAMPLE DRAWINGS FOR A PERMIT APPLICATION**

**NOTE: THE DRAWINGS SUBMITTED NEED NOT BE PREPARED BY A PROFESSIONAL DRAFTSMAN AS IN THESE SAMPLES.**



- NOTES:**
1. ALL DEPTHS BASED ON MLW = 0.00 FT.
  2. FILTER CLOTH WILL BE USED BEHIND BULKHEAD
  3. BULKHEAD TO BE PLACED BEHIND FRINGE WETLANDS
  4. APPROX. 200 CU. YDS. OF UPLAND FILL

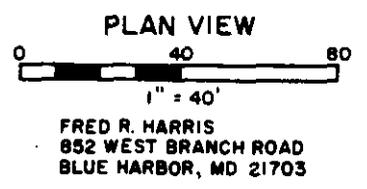


**PURPOSE:** PREVENT EROSION AND PROVIDE BOATING ACCESS

**DATUM:** MLW

**ADJACENT PROPERTY OWNERS:**

1. MARY L. CLARK
2. HARRY N. HAMPTON
- 3.



**PROPOSED BULKHEAD PIER AND FILL**

**IN:** WEST BRANCH HAVEN RIVER

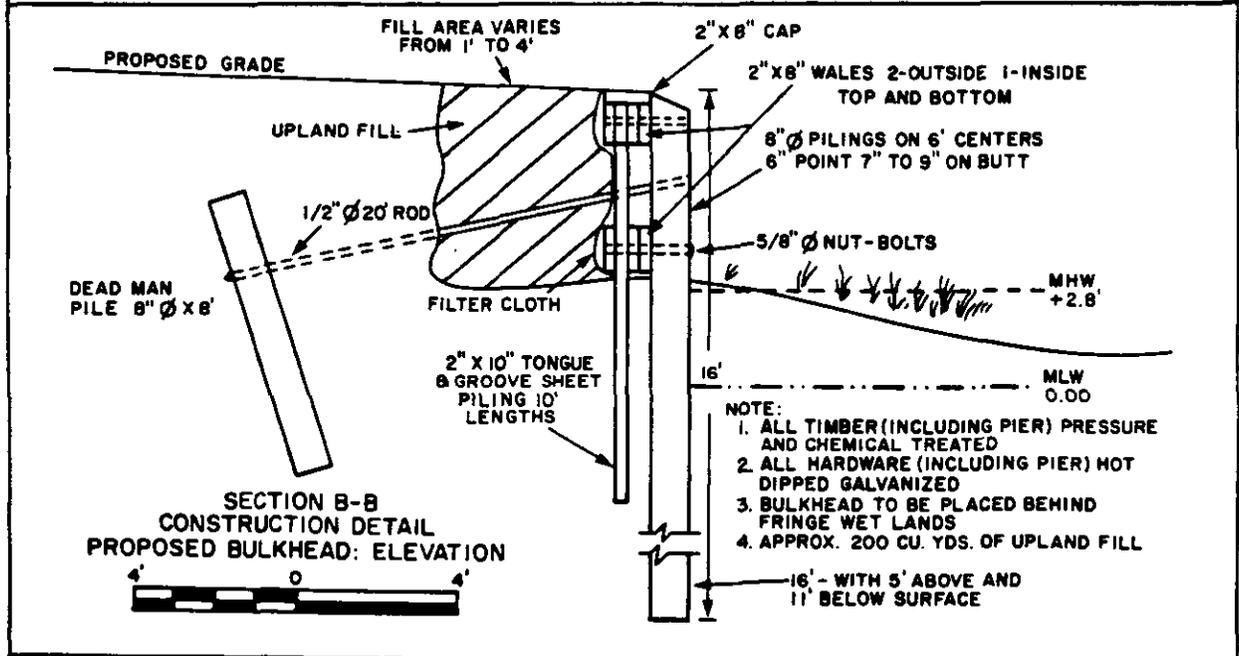
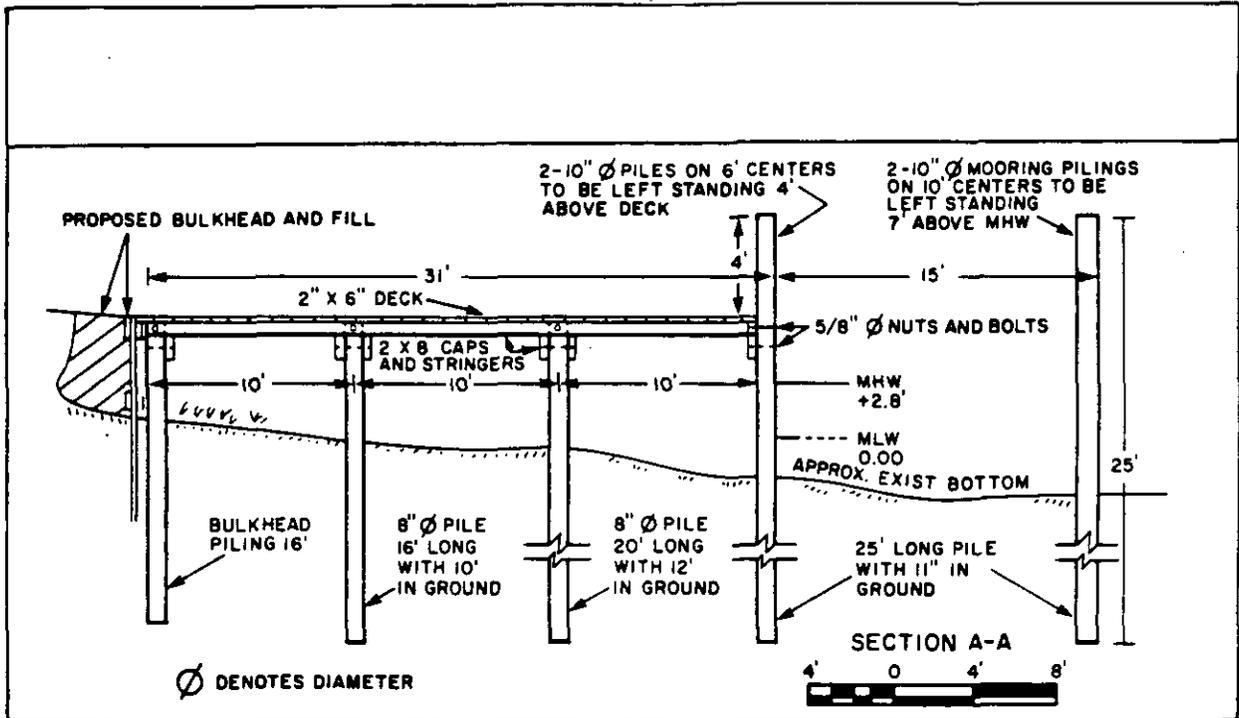
**AT:** BLUE HARBOR

**COUNTY OF:** KING EDWARD **STATE:** MD

**APPLICATION BY:** FRED R. HARRIS

**SHEET 1 OF 2 DATE 10-16-82**

REV. 11-28-82



**PURPOSE:** PREVENT EROSION AND PROVIDE BOATING ACCESS

**DATUM:** MLW

**ADJACENT PROPERTY OWNERS:**

1. MARY L. CLARK
2. HARRY N. HAMPTON
- 3.

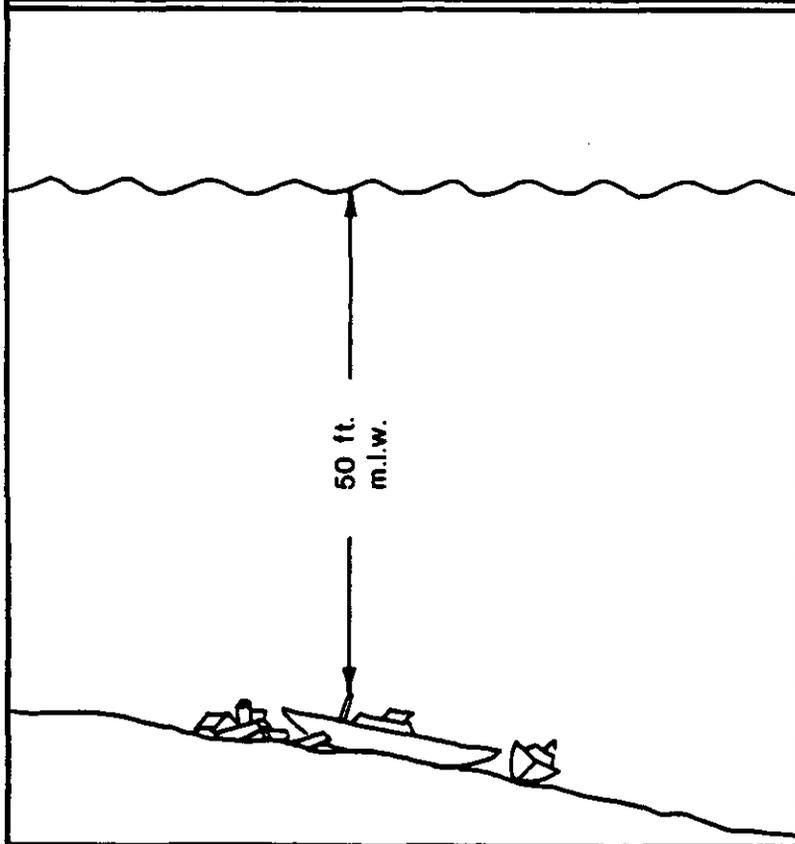
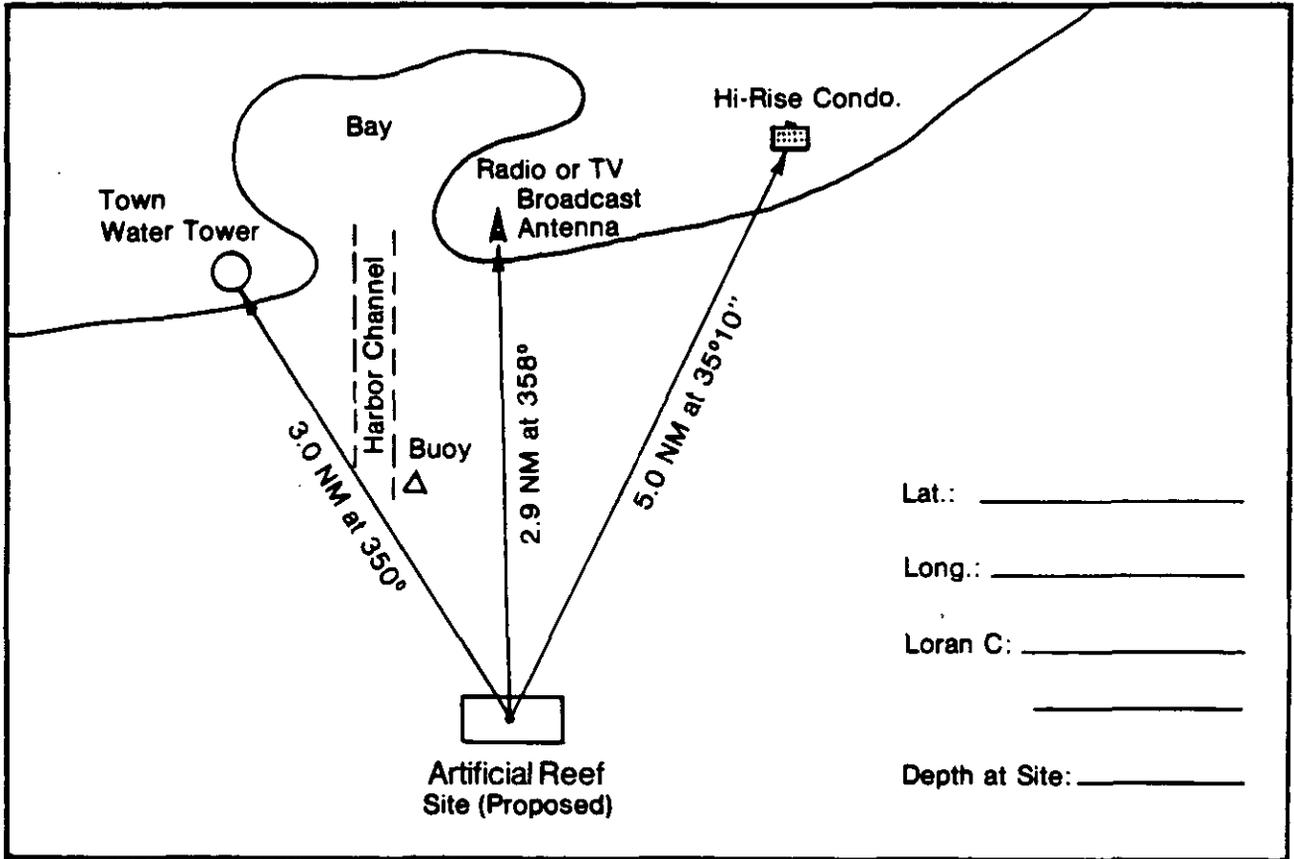
**SECTION VIEWS**

FRED R. HARRIS  
852 WEST BRANCH ROAD  
BLUE HARBOR, MD 21703

**PROPOSED BULKHEAD PIER AND FILL**

IN: WEST BRANCH HAVEN RIVER  
AT: BLUE HARBOR  
COUNTY OF: KING EDWARD STATE: MD  
APPLICATION BY: FRED R. HARRIS

SHEET 2 OF 2 DATE 10-16-82



**Corps Permit Application**  
Number \_\_\_\_\_

**State Permit Application**  
Number \_\_\_\_\_

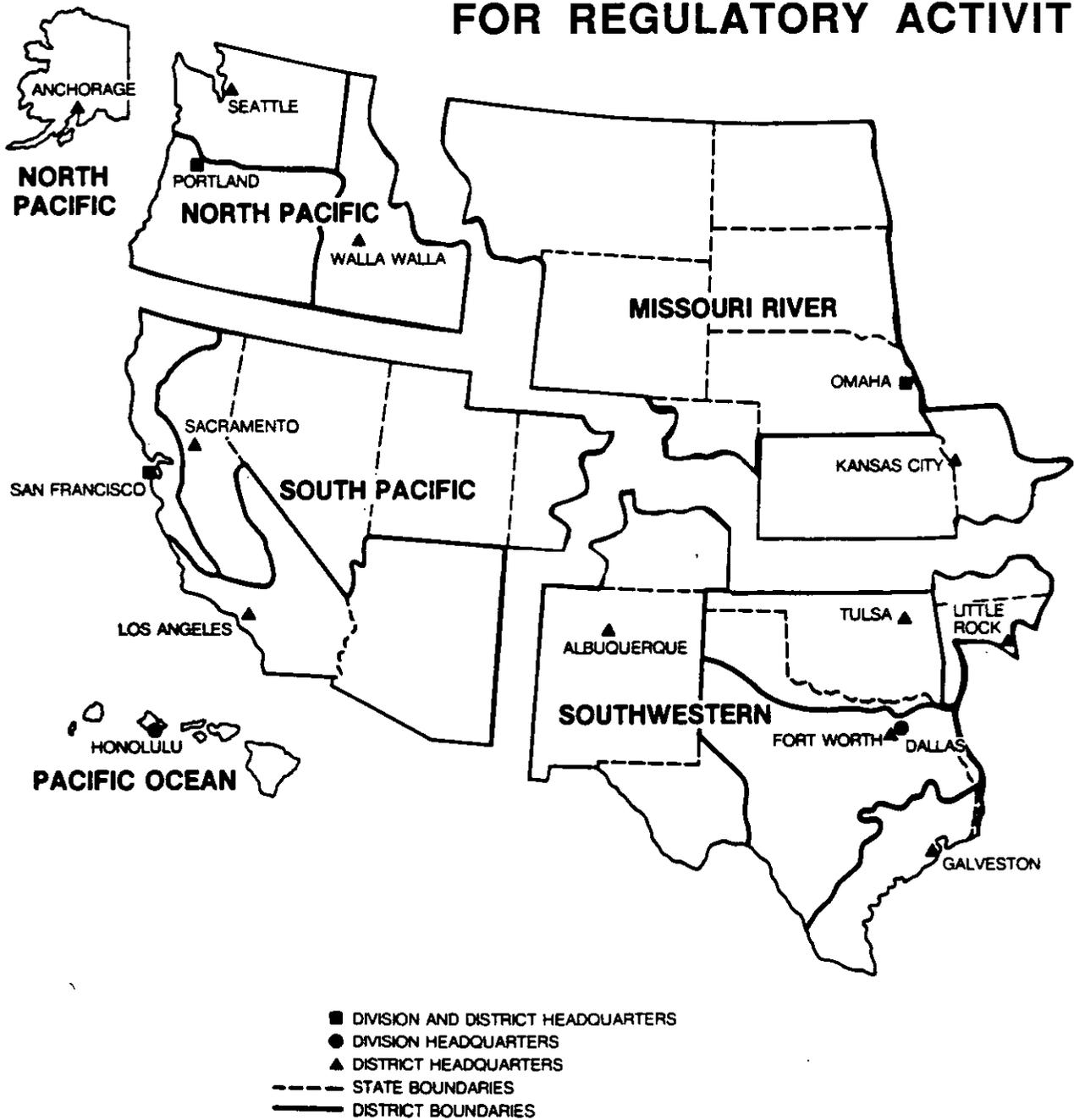
**Applicant:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Date:** \_\_\_\_\_

**Sheet:** \_\_\_\_\_ of \_\_\_\_\_

**Materials Used for Reef:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# DIVISIONS AND DISTRICTS FOR REGULATORY ACTIVITIES





*Note: In Iowa the eastern bank of the Missouri River is regulated by the Omaha office.*

Address correspondence to:

**The District Engineer  
U.S. Army Engineer  
District**

Please include attention  
line in address.

## **LOCATIONS OF REGULATORY OFFICES**

### **ALASKA**

P.O. Box 898  
Anchorage, AK  
99506-0898  
Attention: NPACO-RF  
907/753-2712

### **ALBUQUERQUE**

P.O. Box 1580  
Albuquerque, NM  
87103-1580  
Attention: SWACO-OR  
505/766-2776

### **BALTIMORE**

P.O. Box 1715  
Baltimore, MD 21203-1715  
Attention: NABOP-R  
301/962-3670  
*Joint application with  
New York, Maryland*

### **BUFFALO**

1776 Niagara Street  
Buffalo, NY 14207-3199  
Attention: NCBCO-S  
716/876-5454 x2313  
*Joint application with  
New York*

### **CHARLESTON**

P.O. Box 919  
Charleston, SC  
29402-0919  
Attention: SACCO-P  
803/724-4330

### **CHICAGO**

219 S. Dearborn Street  
Chicago, IL 60604-1797  
Attention: NCCCO-R  
312/353-6428  
*Joint application with  
Illinois*

### **DETROIT**

P.O. Box 1027  
Detroit, MI 48231-1027  
Attention: NCECO-L  
313/226-2218  
*Joint application with  
Michigan*

### **FT. WORTH**

P.O. Box 17300  
Ft. Worth, TX 76102-0300  
Attention: SWFOD-O  
817/334-2681

### **GALVESTON**

P.O. Box 1229  
Galveston, TX 77553-1229  
Attention: SWGCO-R  
409/766-3925

### **HUNTINGTON**

502 8th Street  
Huntington, WV 25701-2070  
Attention: ORHOP-F  
304/529-5487  
*Joint application with  
West Virginia*

### **HONOLULU**

Building 230, Fort Shafter  
Honolulu, HI 96858-5440  
Attention: PODCO-O  
808/438-9258

### **JACKSONVILLE**

P.O. Box 4970  
Jacksonville, FL 32232-0019  
Attention: SAJRD  
904/791-1659  
*Joint application with  
Florida, Virgin Islands*

### **KANSAS CITY**

700 Federal Building  
601 E. 12th Street  
Kansas City, MO 64106-2896  
Attention: MRKOD-P  
816/374-3645

### **LITTLE ROCK**

P.O. Box 867  
Little Rock, AR  
72203-0867  
Attention: SWLCO-P  
501/378-5295

### **LOS ANGELES**

P.O. Box 2711  
Los Angeles, CA 90053-2325  
Attention: SPLCO-R  
213/688-5606

### **LOUISVILLE**

P.O. Box 59  
Louisville, KY 40201-0059  
Attention: ORLOP-F  
502/582-5452

*Joint application with  
Illinois*

### **MEMPHIS**

Clifford Davis Federal  
Building  
Room B-202  
Memphis, TN 38103-1894  
Attention: LMMCO-G  
901/521-3471

*Joint application with  
Missouri, Tennessee,  
Kentucky*

### **MOBILE**

P.O. Box 2288  
Mobile, AL 36628-00001  
Attention: SAMOP-S  
205/690-2658

*Joint application with  
Mississippi*

### **NASHVILLE**

P.O. Box 1070  
Nashville, TN 37202-1070  
Attention: ORNOR-F  
615/251-5181

*Joint application with TVA,  
Tennessee, Alabama*

**NEW ORLEANS**

P.O. Box 60267  
New Orleans, LA  
70160-0267  
Attention: LMNOD-S  
504/838-2255

**NEW YORK**

26 Federal Plaza  
New York, NY 10278-0090  
Attention: NANOP-R  
212/264-3996

**NORFOLK**

803 Front Street  
Norfolk, VA 23510-1096  
Attention: NAOOP-P  
804/446-3652  
*Joint application with  
Virginia*

**OMAHA**

P.O. Box 5  
Omaha, NE 68101-0005  
Attention: MROOP-N  
402/221-4133

**PHILADELPHIA**

U.S. Custom House  
2nd and Chestnut Street  
Philadelphia, PA  
19106-2991  
Attention: NAPOP-R  
215/597-2812

**PITTSBURGH**

Federal Building  
1000 Liberty Avenue  
Pittsburgh, PA 15222-4186  
Attention: ORPOP-F  
412/644-4204  
*Joint application with  
New York*

**PORTLAND**

P.O. Box 2946  
Portland, OR 97208-2946  
Attention: NPPND-RF  
503/221-6995  
*Joint application with  
Oregon*

**ROCK ISLAND**

Clock Tower Building  
Rock Island, IL 61201-2004  
Attention: NCROD-S  
309/788-6361 x6370  
*Joint application with  
Illinois*

**SACRAMENTO**

650 Capitol Mall  
Sacramento, CA 95814-4794  
Attention: SPKCO-O  
916/440-2842

**ST. LOUIS**

210 Tucker Blvd., N  
St. Louis, MO 63101-1986  
Attention: LMSOD-F  
314/263-5703  
*Joint application with  
Illinois, Missouri*

**ST. PAUL**

1135 USPO & Custom  
House  
St. Paul, MN 55101-1479  
Attention: NCSCO-RF  
612/725-5819

**SAN FRANCISCO**

211 Main Street  
San Francisco, CA 94105-1905  
Attention: SPNCO-R  
415/974-0416

**SAVANNAH**

P.O. Box 889  
Savannah, GA 31402-0889  
Attention: SASOP-F  
912/944-5347  
*Joint application with  
Georgia*

**SEATTLE**

P.O. Box C-3755  
Seattle, WA 98124-2255  
Attention: NPSOP-RF  
206/764-3495  
*Joint application with Idaho*

**TULSA**

P.O. Box 61  
Tulsa, OK 74121-0061  
Attention: SWTOD-RF  
918/581-7261

**VICKSBURG**

P.O. Box 60  
Vicksburg, MS 39180-0060  
Attention: LMKOD-F  
601/634-5276  
*Joint application with  
Mississippi*

**WALLA WALLA**

Building 602  
City-County Airport  
Walla Walla, WA  
99362-9265  
Attention: NPWOP-RF  
509/522-6718  
*Joint application with  
Idaho*

**WILMINGTON**

P.O. Box 1890  
Wilmington, NC  
28402-1890  
Attention: SAWCO-E  
919/343-4511  
*Joint application with North  
Carolina*

The Division Engineer  
U.S. Army Engineer  
Division

**NEW ENGLAND**

424 Trapelo Road  
Waltham, MA 02254-9149  
Attention: NEDOD-R  
617/647-8338  
*Joint application with  
Massachusetts, Maine*

**U. S. COAST GUARD**

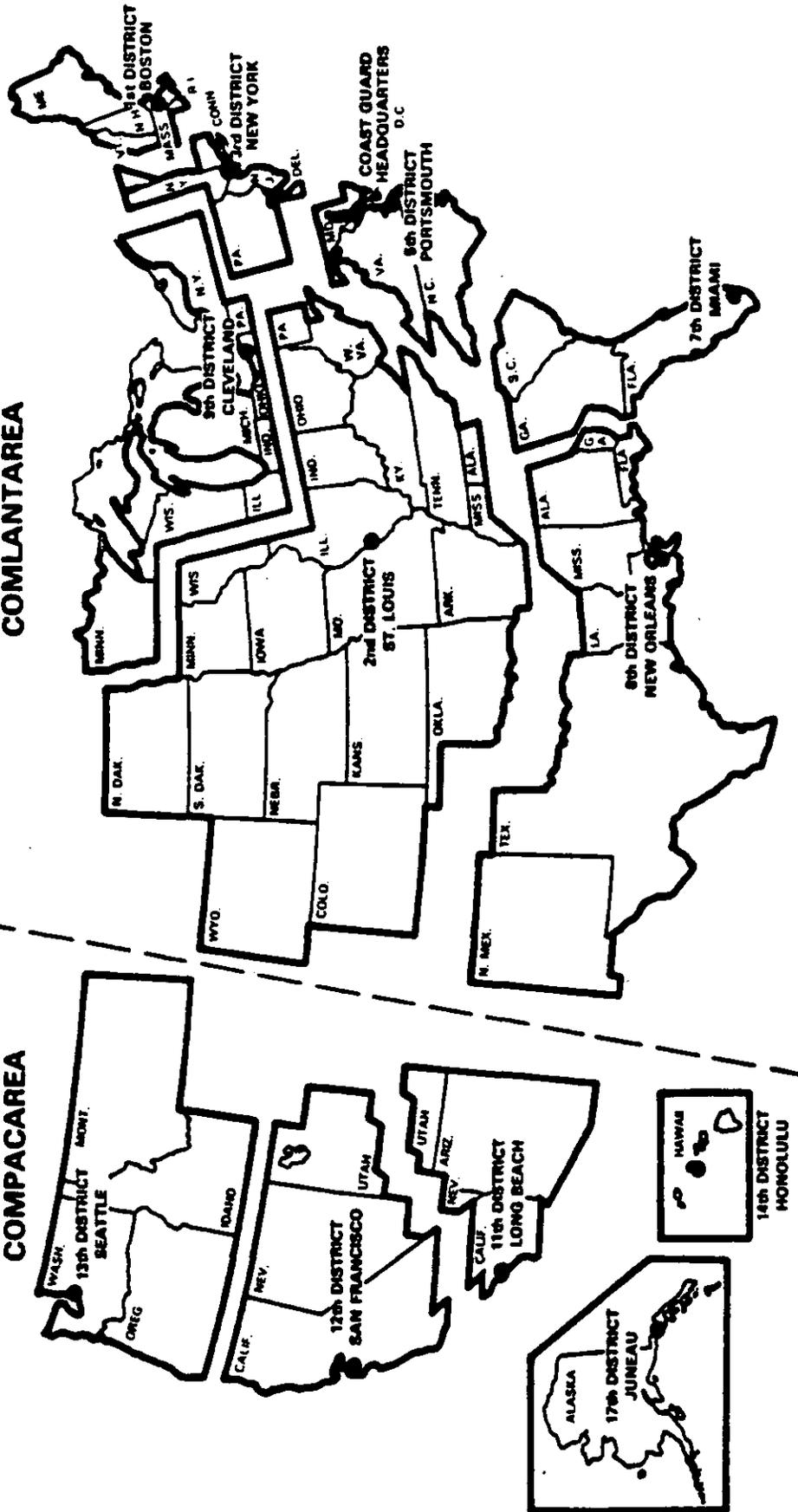
**PRIVATE AIDS TO NAVIGATION**

**INFORMATION**

# U.S. Coast Guard Districts

## Pacific Area COMPACAREA

## Atlantic Area COMLANTAREA



ADDRESSES OF COAST GUARD DISTRICT COMMANDERS

<u>Mailing Address and Telephone Number</u>	<u>Approximate Area</u>
Commander, First Coast Guard District (oan) 150 Causeway Street Boston, MA 02114 (617) 223-3644	Maine, Rhode Island New Hampshire, Massachusetts
Commander, Second Coast Guard District (oan) 1430 Olive Street St. Louis, MO 63103 (314) 425-4601	Mississippi, Missouri, Ohio
Commander, Third Coast Guard District (oan) Governors Island New York, NY 10004 (212) 668-7192	Connecticut, New York New Jersey, Delaware Pennsylvania
Commander, Fifth Coast Guard District (oan) Federal Building 431 Crawford Street Portsmouth, VA 23705 (804) 398-6000	Maryland, Virginia, District of Columbia, North Carolina
Commander, Seventh Coast Guard District (oan) Federal Building 51 SW 1st Avenue Miami, FL 33130 (305) 350-5654	South Carolina, Georgia, Florida
Commander, Eighth Coast Guard District (oan) Hale Boggs Federal Building 500 Camp Street New Orleans, LA 70130 (504) 589-6298	Western Florida, Alabama, Mississippi Texas, Louisiana
Commander, Ninth Coast Guard District (oan) 1240 East 9th Street Cleveland, OH 44199 (216) 522-3910	Great Lakes States
Commander, Eleventh Coast Guard District (oan) Union Bank Building 400 Oceangate Blvd. Long Beach, CA 90802 (213) 590-2311	Southern California
Commander, Twelfth Coast Guard District (oan) Government Island Alameda, CA 94501 (415) 273-7141	Northern California
Commander, Thirteenth Coast Guard District (oan) Federal Building 915 Second Avenue Seattle, WA 98174 (206) 442-5864	Oregon, Washington, Idaho, Montana
Commander, Fourteenth Coast Guard District (oan) 300 Ala Moana Blvd., 9th Floor Honolulu, Hawaii 96850 (808) 546-7109	Hawaii
Commander, Seventeenth Coast Guard District (oan) P.O. Box 3-5000 Federal Building Juneau, Alaska 99802 (907) 586-2680	Alaska

FEDERAL REGULATIONS CONCERNING PRIVATE AIDS TO NAVIGATION, 33 CFR 66

- § 66.01 - 1 Basic provisions.
    - (a) No person, public body or instrumentality under the control of the Commandant, exclusive of the Armed Forces, shall establish and maintain, discontinue, change or transfer ownership of any aid to maritime navigation, without first obtaining permission to do so from the Commandant.
    - (b) For the purposes of this subpart, the term private aids to navigation includes all marine aids to navigation operated in the navigable waters of the United States other than those operated by the Federal Government (Part 62 of this subchapter) or those operated in State waters for private aids to navigation (Subpart 66.05).
    - (c) Coast Guard authorization of a private aid to navigation does not authorize any invasion of private rights, nor grant any exclusive privileges, nor does it obviate the necessity of complying with any other Federal, State or local laws or regulations.
    - (d) With the exception of shore based radar stations, operation of electronic aids to navigation as private aids will not be authorized.
  - § 66.01 - 3 Delegation of authority to District Commanders.
    - (a) Pursuant to the authority in 49 CFR 1.4(g), the Commandant delegates to the District Commanders within the confines of their respective districts (see Part 3 of this Chapter for descriptions) the authority to grant permission to establish and maintain, discontinue, change or transfer ownership of private aids to maritime navigation, and otherwise administer the requirements of this subpart.
    - (b) The decisions of the District Commander may be appealed within 30 days from the date of decision. The decision of the Commandant in any case is final.
  - § 66.01 - 5 Application procedure.
    - Application to establish and maintain, discontinue, change, or transfer ownership of a private aid to navigation shall be made to the Commander of the Coast Guard District in which the private aid to navigation is or will be located. Application forms (CG-2554) will be provided upon request. The applicant shall complete all parts of the form applicable to the aid to navigation concerned, and shall forward the application in triplicate to the District Commander. The following information is required:
      - (a) The proposed position of the aid to navigation by two or more horizontal angles, or bearings and distance from charted landmarks. A section of chart or sketch showing the proposed location of the aid to navigation shall be included.
  - (b) The name and address of the person at whose expense the aid will be maintained.
  - (c) The name and address of the person who will maintain the aid to navigation.
  - (d) The time and dates during which it is proposed to operate the aid.
  - (e) The necessity for the aid.
  - (f) For lights: The color, characteristic, height above water, and description of illuminating apparatus.
  - (g) For fog signals: Type (whistle, horn, bell, etc.) and characteristic.
  - (h) For buoys or daybeacons: Shape, color, number, or letter, depth of water in which located or height above water.
- § 66.01 - 10 Characteristics.
- The characteristics of a private aid to navigation shall conform to the standard U.S. system of aids to navigation characteristics described in subpart 62.25 of Part 62 of this subchapter, except that only tungsten-incandescent light sources will be approved for electric lights.
- § 66.01 - 15 Action by Coast Guard.
- (a) The District Commander receiving the application will review it for completeness and will assign the aid one of the following classifications:
- Class I: Aids to navigation on marine structures or other works which the owners are legally obligated to establish, maintain and operate as prescribed by the Coast Guard.
  - Class II: Aids to navigation exclusive of Class I located in waters used by general navigation.
  - Class III: Aids to navigation exclusive of Class I located in waters not ordinarily used by general navigation.
- (b) Upon approval by the District Commander, a signed copy of the application will be returned to the applicant.
- § 66.01 - 20 Inspection.
- All classes of private aids to navigation shall be maintained in proper operating condition. They are subject to inspection by the Coast Guard at any time and without prior notice.
- § 66.01 - 25 Discontinuance and removal.
- (a) No person, public body or instrumentality shall change, move or discontinue any authorized private aid to navigation required by statute or regulation (Class I, § 66.01-15) without first obtaining permission to do so from the District Commander.
- (b) Any authorized private aid to navigation not required by statute or regulation (Classes II and III, § 66.01-15) may be discontinued and removed by the owner after 30 days' notice to the District Commander to whom the original request for authorization for establishment of the aid was submitted.

- (c) Private aids to navigation which have been authorized pursuant to this part shall be discontinued and removed without expense to the United States by the person, public body or instrumentality establishing or maintaining such aids when so directed by the District Commander.
- § 66.01 - 30 Corps of Engineers' approval.
  - (a) Before any private aid to navigation consisting of a fixed structure is placed in the navigable waters of the United States, authorization to erect such structure shall first be obtained from the District Engineer, U.S. Army Corps of Engineers in whose district the aid will be located.
  - (b) The application to establish any private aid to navigation consisting of a fixed structure shall show evidence of the required permit having been issued by the Corps of Engineers.
- § 66.01 - 35 Marking of structures and floating obstructions.
  - Any structure, mooring, mooring buoy, or dam, in or over the navigable waters of the United States shall display the lights and other signals for the protection of maritime navigation as may be prescribed by the Commandant. The prescribed lights and signals shall be installed, maintained and operated by and at the expense of the owner, or operator. After obtaining such approval or a statement of no objection from the Corps of Engineers as is required by law, the owner or operator shall apply in accordance with § 66.01-5 to the District Commander having jurisdiction over the waters in which the structure or floating obstruction will be located for a determination of the lights and other signals to be displayed. This requirement includes the temporary lights and signals to be displayed during the construction of a structure. If no regulation exists prescribing the lights or other signals required to mark any work or obstruction, each case shall be considered individually by the District Commander, who will prescribe such lights and signals as he considers necessary for the safety of navigation.
- § 66.01 - 40 Exemptions.
  - (a) Nothing in the preceding sections of this subpart shall be construed to interfere with or nullify the requirements of existing laws and regulations pertaining to the marking of vessels and other obstructions sunk in the navigable waters of the United States (Part 64 of this subchapter), the marking of artificial islands and structures which are erected on or over the seabed and subsoil of the outer Continental Shelf (Part 67 of this subchapter), or the lighting of bridges over navigable waters of the United States (Part 68 of this subchapter).
- (b) Persons marking structures pursuant to Part 64 or Part 68 of this subchapter are exempted from the provisions of § 66.01-5 and 66.01-35.
- § 66.01 - 45 Penalties.
  - Any person, public body or instrumentality, excluding the armed forces, who shall establish, erect or maintain any aid to maritime navigation without first obtaining authority to do so from the Coast Guard or who shall violate the regulations relative thereto issued in this part, is subject to the provisions of 14 U.S.C. 83. Any owner or operator of a fixed structure, excluding an agency of the United States, who violates any of the rules or regulations prescribed with respect to lights and other signals for fixed structures, is subject to the provisions of 14 U.S.C. 85.
- § 66.01 - 50 Protection of private aids to navigation.
  - Private aids to navigation lawfully maintained under these regulations are entitled to same protection against interference or obstruction as is afforded by law to Coast Guard aids to navigation (Part 70 of this subchapter). If interference or obstruction occurs, a prompt report containing all the evidence available should be made to the Commander of the Coast Guard District in which the aids are located.
  - § 66.01 - 55 Transfer of ownership.
    - (a) When any private aid to navigation authorized by the District Commander, or the essential real estate or facility with which the aid is associated, is sold or transferred, both parties to the transaction shall submit application ( § 66.01-5) to the Commander of the Coast Guard District in which the aid is located requesting authority to transfer responsibility for maintenance of the aid.
    - (b) The party relinquishing responsibility for maintenance of the private aid to navigation shall indicate on the application form (CG-2554) both the discontinuance and the change of ownership of the aid sold or transferred.
    - (c) The party accepting responsibility for maintenance of the private aid to navigation shall indicate on the application form (CG-2554) both the establishment and the change of ownership of the aid sold or transferred.
    - (d) In the event the new owner of the essential real estate or facility with which the aid is associated refuses to accept responsibility for maintenance of the aid, the former owner shall be required to remove the aid without expense to the United States. This requirement shall not apply in the case of any authorized private aid to navigation required by statute or regulation (Class I, § 66.01-15) which shall be maintained by the new owner until the conditions which made the aid necessary have been eliminated.

## U.S. COAST GUARD

### PRIVATE AIDS TO NAVIGATION APPLICATION

#### INSTRUCTIONS

1. The rules, regulations, and procedures pertaining to private aids to navigation are set forth in the copy of Code of Federal Regulations; Title 33, Chapter 1, Part 66, on the back of this page.
2. Three copies of the application for private aids shall be forwarded to the Commander of the Coast Guard District in which the aids will be located 30 days in advance of the proposed action. Sections of charts or sketches showing the work proposed shall accompany each application.
3. When making application for private aids to mark structures and mooring buoys in navigable waters or to mark the excavating or depositing of material therein, evidence is required of the authorization obtained from Corps of Engineers, Department of the Army, for such work. (Code of Federal Regulations; Title 33, Part 209.120.)
4. The applicant shall complete all of Blocks 1, 2, 3, 4, 5, 9 and 10 for all new applications. When an aid is being discontinued, Block 3 need not be completed. Block 6 shall be completed whenever authorization is required to be obtained from Corps of Engineers (See Instruction No. 3). Columns of Block 7 will be completed as follows:
  - a. Unlighted buoys - 7a, 7e, 7f, and 7j.
  - b. Lighted buoys - 7a, 7b, 7c, 7d, 7e, 7f, 7g, 7h, and 7j.
  - c. Daybeacons - 7a, 7e, 7f (if applicable), 7h, 7i, and 7j.
  - d. Light on a structure - 7a, 7b, 7c, 7d, 7e, 7f (if applicable), 7g, 7h, 7i, and 7j.

When an aid is being changed, Block 8 shall be used to describe the nature of the change.

5. The required information for each column includes the following:
  - (7a) Proposed number or letter to be assigned to the aid.
  - (7b) Period of light (time in seconds for one complete cycle).
  - (7c) Flash length in seconds. For complex or multiple flashes, explain in column (7j).
  - (7d) Color of light.
  - (7e) Position by two or more horizontal angles, or bearing and distance from a prominent charted landmark. If a prominent charted landmark is not available, show latitude and longitude as precisely as the chart permits.
  - (7f) Depth of water at buoy or structure (if marine site). All depths are measured from mean low water except on Great Lakes where depths are measured from low water datum.
  - (7g) Candlepower, if known; otherwise, include the following information in column (7j); lens size, lamp voltage and amperage if electric, or details of other illuminant to be used.
  - (7h) Height of light or unlighted structure above water. Height is measured from mean high water except in the Great Lakes where heights are measured from low water datum shown on U.S. Lake Survey Charts. The height of a light on a buoy is measured from the water line.
  - (7i) Include details of structure (type, color).
  - (7j) Used for the following specific information, plus any other useful details: a. buoys - size, shape, color, and reflective material used; b. structures - daymark shape and color; c. fog signal on a buoy or structure - type and model, audible range, and characteristic (number of strokes or blasts, period and blast length).

6. This form may be used to cover more than one aid in the same geographic area. Draw a line between each aid as indicated in example. Attach separate sheet if additional space is required.
7. Attach a section of chart showing the proposed location of the aid(s) to navigation.
  - a. After receipt of the approved form the applicant will advise the District Commander by telegram or other rapid means of communications when the work authorized is actually accomplished.
  - b. If the aids have not been installed within one year of the approval date, the approved application is automatically cancelled.
  - c. Any discrepancy in the operation of the aid(s) at any time shall be reported to the District Commander by telegram or other rapid means of communication in order that Notices to Mariners may be issued. A discrepancy exists whenever the aid is not as described in the approved application, i.e., lack of signal, incorrect light characteristic, or improper color, shape or position of shore structure or buoy. The correction of the discrepancy will also be reported by the same method.
9. All classes of private aids to navigation shall be maintained in proper condition. They are subject to inspection by the Coast Guard at any time and without prior notice to the maintainer.

#### 7. APPLICANT WILL FILL IN APPLICABLE REMAINING COLUMNS

FOR DISTRICT COMMANDERS ONLY		EXAMPLE OF USE OF APPLICATION							REMARKS (See Instructions)	
		LIGHT FLASH PER. (7b)	COLOR (7d)	POSITION (7e)	DEPTH OF WATER (7f)	CAN- DLE POWER (7g)	HT. ABOVE WATER (7h)	STRUCTURE TYPE, COLOR, AND HEIGHT (7i)		
LIGHT NUMBER OR PAGE	NAME OF AID								NO. OR L.T.R. (7a)	PER. (7b)
		1	4s	WHITE	205 T, 35-40 yds from tank, Bayview, Va.	8 FL	20	8 FL		5' Lighted buoy - black
		2			200 T, 3425 yds from tank, Bayview, Va.	7 FT				Non buoy - Red White Reflector
		3			210 T, 2810 yds from tank, Bayview, Va.	2 FL		7 FL		2' square daymark - black
		6	2.5s	WHITE	218.5 T, 330 yds from tank, Bayview, Va.	8 FL	20	13 FL		3' square daymark - black

DEPARTMENT OF  
TRANSPORTATION  
U.S. COAST GUARD  
CG-2554 (Rev. 7-76)

**PRIVATE AIDS TO NAVIGATION APPLICATION**  
(See attached instructions and copy of Code of Fed. Reg., Title 33, Chap. 1, Part 66)

Form Approved  
OMB-004-R5681

NO PRIVATE AID TO NAVIGATION MAY BE AUTHORIZED UNLESS A COMPLETED APPLICATION FORM HAS BEEN RECEIVED (14 U.S.C. 83; 33 C.F.R. 66.01-5).

1. ACTION REQUESTED FOR PRIVATE AIDS TO NAVIGATION: A  ESTABLISH AND MAINTAIN B  DISCONTINUE C  CHANGE D  TRANSFER OWNERSHIP 2. DATE ACTION TO START

3. AIDS WILL BE OPERATED: A.  THROUGHOUT YEAR B.  TEMPORARILY UNTIL C.  ANNUALLY FROM TO

4. NECESSITY FOR AID (Continue in Block 8)

5. GENERAL LOCALITY  PERMIT OR  LETTER (file and date)  
6. CORPS OF ENGINEERS AUTHORIZED THIS STRUCTURE OR BUOY BY

**FOR DISTRICT COMMANDERS ONLY**

7. APPLICANT WILL FILL IN APPLICABLE REMAINING COLUMNS

LIGHT LIST NUMBER OR PAGE	NAME OF AID	NO. OF LTR. (7a)	LIGHT		POSITION (7e)	DEPTH OF WATER (7i)	CAN. OLE. WATER (7g)	HT. ABOVE WATER (7h)	STRUCTURE TYPE, COLOR, AND HEIGHT ABOVE GROUND (7j)	REMARKS (See Instructions) (7l)
			FLASH PER. (7b)	LGTH. COLOR (7c)						

8. ADDITIONAL COMMENTS

9a. NAME AND ADDRESS OF PERSON IN DIRECT CHARGE OF AID 9b. TELEPHONE NO. 9c. NAME AND ADDRESS OF PERSON OR CORPORATION AT WHOSE EXPENSE AID IS MAINTAINED 9d. DATE 9e. SIGNATURE AND TITLE OF OFFICIAL SIGNING

10a. NAME AND ADDRESS OF PERSON OR CORPORATION AT WHOSE EXPENSE AID IS MAINTAINED 10b. THE APPLICANT AGREES TO SAVE THE COAST GUARD HARMLESS WITH RESPECT TO ANY CLAIM OR CLAIMS THAT MAY RESULT ARISING FROM THE ALLEGED NEGLIGENCE OF THE MAINTENANCE OR OPERATION OF THE APPROVED AID(S). 10c. DATE 10d. SIGNATURE AND TITLE OF OFFICIAL SIGNING

FOR USE BY DISTRICT COMMANDER SERIAL NO. CLASSIFICATION OF AIDS Class 9a. RECD. CHART L. N. M.

DATE APPROVED SIGNATURE (By direction)





## INSTRUCTIONS

1. The applicant will complete items 1 through 9.
2. Submit in triplicate to the Coast Guard District Commander. Attach a location plat, print of the structure showing positions of the aids, a complete Aids to Navigation Equipment List, and when establishing or changing a fog signal, the certificate required by 33 CFR 67.10-1(4).
3. You may obtain from the Coast Guard District Commander copies of Title 33—Navigation and Navigable Waters, Chapter 1—Coast Guard, Department of Transportation, Subchapter C—Aids to Navigation, Part 67—Private Aids to Navigation, Outer Continental Shelf and Waters Under the Jurisdiction of the United States.

11. REMARKS

APPENDIX VII

DONATION AGREEMENT FOR LOUISIANA ARTIFICIAL REEF PLAN

STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

ACT OF DONATION

Be it known that on this \_\_\_\_\_ day of \_\_\_\_\_, 1987, before me the undersigned notary, duly commissioned and qualified in and for the parish and state aforesaid therein residing and in the presence of the competent witnesses hereinafter named and undersigned:

Personally came and appeared \_\_\_\_\_, hereinafter called "Donor," a corporation, who declared that, in consideration of the mutual covenants and conditions set forth below and pursuant to the provisions of the Louisiana Fishing Enhancement Act, National Fishing Enhancement Act, Louisiana Artificial Reef Plan, and National Artificial Reef Plan, Donor, on its behalf and acting as "Operator" on the behalf of the other owners of an undivided interest therein, does hereby, for the purpose of enhancing fishing resources in waters within and adjacent to the coast of the State of Louisiana, irrevocably donate, transfer, carry, assign, and deliver unto the Louisiana Department of Wildlife and Fisheries, acting on behalf of the State of Louisiana, hereinafter called "Donee," the following described structure, which is hereinafter collectively referred to as "said structure," to-wit:

That certain oil and gas production platform,

(Insert Description of Structure)

To have and to hold said structure unto Donee and its assigns forever.

This donation is made by Donor without any warranty, either express or implied, and in particular any warranty as to the condition, fitness or usability of said structure for any purpose except that the materials donated meet the applicable requirements of the National Artificial Reef Plan and the Louisiana Artificial Reef Plan and subject to Donor's ability to transport said structure to the site buoyed by the Donee at which it is to be placed, as more fully described below. Donee has obtained a permit for the construction and management of an artificial reef at the aforementioned buoyed site pursuant to the National Fishing Enhancement Act. Donor will place the structure on the floor of the Gulf of Mexico in a horizontal/vertical (you choose) position and the structure will be emplaced on the sea floor at the site buoyed by Donee. Donor will be responsible for said structure until it has been emplaced at the site buoyed by Donee, the general location of which is described below. However, it is understood that Donor's obligation shall only be to place the structure within five hundred (500) feet of the site buoyed by Donee. Donee assumes no liability for the transport of said structure or for the deposition of said structure, or any part thereof,

at any site other than the site buoyed by the Donee. It is expressly understood and agreed that Donor does not guarantee a site-specific point for the landing of said structure on the floor of the Gulf of Mexico at the location described below, except that said structure be placed on the sea floor in a horizontal/vertical position at the site buoyed by the Donee. Donee further agrees to have a representative at the buoyed site at the time of placement.

Immediately upon the completion of Donor's operations to place said structure on the floor of the Gulf of Mexico, title to said structure shall pass from Donor to Donee free and clear of encumbrances of any kind or description. Operations to place the structure on the floor of the Gulf of Mexico shall be conducted by Donor at the site buoyed by the Donee, the general location of which is as follows, to-wit:

CORNER

LORAN C COORDINATES

POLAR COORDINATES

(Insert Location Information)

Donor's placement of said structure at the aforesaid site buoyed by the Donee shall relieve the Donor of any and all obligations or requirements to further transport or move the structure. Further, Donee agrees to indemnify and hold donor harmless from and against any and all claims, demands or causes of action in favor of any persons for damage or loss to persons or property arising out of the final location of said structure on the condition that Donor places the structure at the aforesaid site buoyed by the Donee.

It is further expressly understood and agreed that Donee will indemnify and hold Donor harmless from and against any and all claims or causes of action and the risk of loss or damage that may occur to persons or property arising after title to said structure passes to the Donee and arising out of or in any way connected with use of the structure, and/or any appurtenances attached thereto by Donee or other persons, after title to said structure passes to Donee provided the structure meets the requirements of the Louisiana Artificial Reef Plan and the National Artificial Reef Plan.

After title to said structure has passed to the Donee, Donor shall have no obligation or duty whatsoever to, in any manner, provide for the maintenance or repair of the structure or any appurtenance attached thereto.

It is further expressly understood that during the operations required to deliver said structure to the floor of the Gulf of Mexico, Donor extends no indemnity to Donee for injury or loss sustained by Donee, its agents, or third parties arising out of Donee's negligence. Donor assumes liability only for its acts as conducted by its own employees or agents.

Donee does hereby further appear for the purpose of accepting the donation. At the time title to the structure passes to Donee, Donor shall, on its behalf and on behalf of the other owners of an undivided interest in the structure, donate to the Louisiana Artificial Reef Fund

the amount of \_\_\_\_\_ for use in the Louisiana Artificial Reef Program.

IN WITNESS WHEREOF, this Act of Donation is effective as of the date first above written.

THUS DONE AND SIGNED ON THIS \_\_\_\_\_ day of \_\_\_\_\_, 1987,  
at \_\_\_\_\_ Baton Rouge, Louisiana in the presence of the undersigned competent witnesses who hereunto sign their names with said appearers and me, notary.

WITNESSES:

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

DONOR:

\_\_\_\_\_  
(company name)

BY:

\_\_\_\_\_  
(Title of Corporate Officer)

DONEE:

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

Louisiana DEPARTMENT OF  
WILDLIFE AND FISHERIES

BY: \_\_\_\_\_ \*

Secretary

\*Changed to conform to Louisiana requirements for act of donation.

RESOLUTION

Louisiana Department of Wildlife and Fisheries  
Louisiana Wildlife and Fisheries Commission

WHEREAS, the Louisiana Wildlife and Fisheries Commission has the authority under Title 76, Part IX, Section 656 to provide non-residents hunting on a shooting preserve a special license for a reasonable fee and,

WHEREAS, non-resident hunters frequently participate and enjoy licensed hunting preserves within the state and,

WHEREAS, non-residents are currently required to obtain a non-resident hunting license to utilize Louisiana's commercial hunting preserves and,

WHEREAS, there was no adverse comments to the Notice of Intent for the proposed non-resident preserve hunting license,

THEREFORE BE IT RESOLVED, that the Louisiana Wildlife and Fisheries Commission does hereby ratify the non-resident preserve hunting license which can be offered to non-resident sportsmen hunting on licensed commercial hunting preserves and,

BE IT FURTHER RESOLVED, that the fee for the special license shall be fifteen dollars (\$15.00).

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Joe Palmisano, Chairman  
La. Wildlife and Fisheries  
Commission

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Virginia Van Sickle, Secretary  
La. Department of Wildlife and  
Fisheries

RULE

OFFICE OF WILDLIFE  
DEPARTMENT OF WILDLIFE AND FISHERIES

Title 76

Part V. Wild Quadrupeds and Wild Birds

Chapter 3. Wild Birds

303. Non-Resident Preserve Hunting License

The Louisiana Wildlife and Fisheries Commission has established a special non-resident preserve hunting license which can be purchased for use on a specific preserve in lieu of the regular resident small game hunting license. The fee for the special non-resident preserve hunting license is \$15.00.

RULE

OFFICE OF WILDLIFE  
DEPARTMENT OF WILDLIFE AND FISHERIES

Title 76

Part V. Wild Quadrupeds and Wild Birds

Chapter 3. Wild Birds

303. Non-Resident Preserve Hunting License

The Louisiana Wildlife and Fisheries Commission has established a special non-resident preserve hunting license which can be purchased for use on a specific preserve in lieu of the regular resident small game hunting license. The fee for the special non-resident preserve hunting license is \$15.00.

Resolution

Louisiana Department of Wildlife and Fisheries  
Louisiana Wildlife and Fisheries Commission  
September 8, 1988

WHEREAS, the Louisiana Wildlife and Fisheries Commission has the authority to set requirements and issue licenses for game breeders, and

WHEREAS, the Louisiana Wildlife and Fisheries Commission adopted requirements affecting several aspects of the game breeder licensing procedure, including pen specifications and general requirements at the July 7, 1988 Commission meeting, and

WHEREAS, these general requirements shall apply to applicants for Game Breeders Licenses for all species of wildlife, and

WHEREAS, this information has been processed in accordance with Administrative Procedures Act, now

THEREFORE BE IT RESOLVED, that the Louisiana Wildlife and Fisheries Commission on this date ratifies the pen requirements and other general requirements for game breeders set forth in the attached rule.

  
Virginia Van Sickle, Secretary  
La. Department of Wildlife & Fisheries

  
Joe Palmisano, Chairman  
La. Wildlife & Fisheries Commission

## Rule

### Louisiana Department of Wildlife and Fisheries Louisiana Wildlife and Fisheries Commission

This Commission regulation establishes general requirements, minimum pen specifications and animals that will be permitted under the Game Breeder's License to read as follows:

For more detailed information contact the address listed below:

Louisiana Department of Wildlife and Fisheries  
Game Division, Game Breeder's License  
P. O. Box 98000  
Baton Rouge, Louisiana 70898-9000

#### Minimum Pen Specifications and Requirements for Game Quadrupeds and Birds for Which a Game Breeder's License is Required

The dimensions and specifications described herein are considered as basic minimum standards for permanent exhibit facilities for the well-being of the animals and birds specified. It must be emphasized that these are minimum standards and the optimum conditions for most animals and birds would include dimensions at least several times greater than those cited.

#### 1. WATERFOWL

Single Bird: 100 square feet with 25% in water areas; increase pen size by 25% for each additional bird with one-fourth of this increase being in water area.

#### 2. DOVES

Single Bird: 3 feet x 2 feet x 5 feet high  
Community Group: large enough to fly or at least 8 feet in diameter.

#### 3. PHEASANTS, QUAIL, CHUKARS

##### A. Exhibit Purposes:

Single Bird: 20 square feet; add 20 square feet for each additional bird.

##### B. Commercial Operation:

Extension Service Recommendations:

#### Quail

1-10 days old: 9 chicks per square foot;  
10 days - 6 weeks old: 6 chicks per square foot;  
6 weeks and older: 3 birds per square foot;  
1 breeding pair per square foot.

Pheasants

1-10 days old: 4 chicks per square foot;  
10 days - 6 weeks old: 6 chicks per square foot;  
6-14 weeks old: 1 bird per 4 square feet;  
1 breeding pair per 8 square feet.

Chukars

Same as pheasant

4. HAWKS, FALCONS

Refer to Federal raptor facilities specifications

5. SQUIRRELS

A. Single Animal: 3 feet long x 3 feet wide x 4 feet high;  
Additional Animals: add 6 inches more in length per  
additional animal; several limbs, nest box.

B. Due to the inherent tendency of these animals to bite  
people and in an attempt to cooperate with Chapter II of  
the State Sanitary Code under authority of Act 601 of the  
1974 Louisiana Legislature, specifically Section 2.05, it  
is further required that applicants provide a certificate  
from a licensed veterinarian stating that squirrels are  
free of rabies.

6. RABBITS

Single Animal: 6 feet long x 3 feet wide x 3 feet high;  
Additional Animals: add 1 foot in length per animal; gnawing logs;  
den or retreat.

7. WHITETAIL DEER, FALLOW DEER, OR OTHER IMPORTED DEER

A. No license will be issued in metropolitan or urban areas.  
A rural environment is the first requirement to keep these  
animals.

B. Exhibit Purposes:  
Single Animal: 5000 square feet paddock or corral (50  
feet wide x 100 feet long); increase corral size by 50% of  
that size for each additional animal; shelter required.

Sturdy Corral Fence: 9 gauge chain link or other  
satisfactory woven wire, 8 feet high minimum.

C. Commercial Operation:  
Same fence construction but 15 acre minimum.

8. \*BEAR (LICENSE WILL NOT BE ISSUED)

Single Animal: Sturdy pen (chain link wire) not less than 9 gauge with top cover 25 feet long x 12 feet wide x 10 feet high;  
Pair: 30 feet x 15 feet x 10 feet high;  
Pool: 6 feet x 4 feet x 18 inches deep, with facilities for spaying or wetting bears;  
Den: 6 feet long x 4 feet wide x 4 feet high, per animal.

10. \*WOLVES AND WOLF CROSSES ( PERMITS WILL NOT BE ISSUED)

Single Animal: 15 feet long x 8 feet wide x 6 feet high; double cage area for each additional animal; secluded den area required, 4 feet x 4 feet for each animal, sturdy wire required.

11. \*COUGAR, MOUNTAIN LION (LICENSE WILL NOT BE ISSUED)

Single Animal: 10 feet long x 8 feet wide x 8 feet high, covered roof;  
Pair: 15 feet long x 8 feet wide x 8 feet high;  
Materials: not less than 9 gauge chain link or equivalent and safety perimeter rail; danger sign, claw log; 24-inch wide shelf, 8 feet long, 40 inches off floor.

\*NOTE:

Current valid Game Breeder's License holders for these species will be "grandfathered" and renewed annually until existing captive animals expire, or are legally sold, traded, etc. out of state or to a suitable public facility. This position by the Department is necessary due to the ability of these specific animals to cause serious physical injury to the owner, or other innocent bystanders. Qualified educational institutions, zoos or scientific organizations will be excepted to this provision on a case by case basis.

12. GENERAL REQUIREMENTS:

- A. Game animals and birds cannot be taken from the wild nor released into the wild except as provided on shooting preserves. (The only exception to this policy is that hawks and falcons may be taken from the wild by falconers, as provided for in their federal regulations). Applicants are required to have a bill of sale for each animal acquired, as well as keeping records of all birds and animals sold or transferred, and the names and addresses to whom they were sold or transferred. These records shall be subject to inspection at any time by Wildlife and Fisheries employees.
- B. Additionally, it is the responsibility of the applicant to comply with pen specifications. In addition to the described pen dimensions all bird and animal pens must

include adequate feeding and watering facilities necessary for the well-being of the animal. Applicants for waterfowl, doves, pheasants, quail, chukars, squirrels and rabbits must submit a form verifying their facilities meet or exceed the described pen specifications, along with a copy of the bill of sale. Their facilities may require inspection at the biologist's discretion. All deer and potentially dangerous animal pens must be inspected for security.

- C. Game Breeders can only keep those species for which they have been approved to keep. If applicant desires to keep additional species, the facilities for those species must be inspected and approved prior to obtaining the new species.
  
- D. All new applicants for a Game Breeder's License as well as renewal applicants for all deer and the previously specified potentially dangerous animals must submit (1) a signed waiver statement holding the Department of Wildlife and Fisheries and it's employees harmless of liability as a result of issuing a Game Breeder's License. License will only be issued to those applicants whom are willing to accept full responsibility and liability for any damages or injuries resulting from their animals or activities as a licensed game breeder of domesticated wildlife in Louisiana; (2) a written plan of action for recapture of an escaped animal must be submitted and approved by the Department before the application is processed. The plan of action should include (a) equipment, (b) personnel, (c) recovery techniques, and (d) method of mitigation payments for damages caused by the escaped animal. This information is necessary because the Department of Wildlife and Fisheries will not provide these services.

NATIONAL HUNTING & FISHING DAY  
RESOLUTION

- WHEREAS, because of the outstanding contributions that America's hunters and fishermen have made to conservation, recreation and the economy, they are deserving of special recognition, and
- WHEREAS, since the turn of the century, hunters and anglers have been the leaders in nearly all major conservation programs. These sportsmen-conservationists are responsible for the funding of state fish and game departments in all fifty states. They asked that they, themselves, be required to buy licenses and that the money collected be used to support state conservation agencies, in the last fifty years along, these sportsmen have provided \$2.5 billion for conservation programs, and
- WHEREAS, hunters and fishermen asked for the establishment of regulated seasons and bag limits so that sportsmen could harvest the annual crop of game and fish without damage to the basic breeding population. The result has been that there are now more deer, elk, antelope and wild turkey in the United States than there were fifty years ago. Further, sportsmen's programs have benefited numerous species of non-game fish and wildlife through habitat development, and
- WHEREAS, hunters and fishermen, unique in all America, asked that their fishing and hunting equipment be taxed and that the money be used for land acquisition, research and habitat management for fish and wildlife for the enjoyment of all Americans, and
- WHEREAS, through their publications and organizations such as the National Wildlife Federation, Ducks Unlimited, Izaak Walton League of America and many others, hunters and fishermen have led the nation in the battle for a better environment and the wise use of our natural resources.
- NOW, THEREFORE BE IT RESOLVED, that the Louisiana Wildlife & Fisheries Commission hereby proclaim September 24, 1988, as National Hunting and Fishing Day in Louisiana. The Commission urges all of our citizens to join with the sportsmen-conservationists in a rededication to the wise use of our natural resources and their proper management for the benefit of future generations,. Further, the Commission urges all citizens to take part in National Hunting & Fishing Day activities on September 24, 1988, to learn more about conservation and outdoor skills.

# State of Louisiana



DEPARTMENT OF WILDLIFE AND FISHERIES  
POST OFFICE BOX 98000  
BATON ROUGE, LA. 70898

VIRGINIA VAN SICKLE  
SECRETARY

BUDDY ROEMER  
GOVERNOR

August 24, 1988

## MEMORANDUM

TO: Virginia Van Sickle, Secretary  
All Commission Members

FROM: Bob Dennie, Information & Education Director

SUBJECT: National Hunting & Fishing Day - September 24, 1988

### FOR COMMISSION CONSIDERATION

Because of the outstanding contributions that America's hunters and fishermen have made to conservation, recreation and the economy, they are deserving of special recognition.

Since the turn of the century, hunters and anglers have been the leaders in nearly all major conservation programs. These sportsmen-conservationists are responsible for the funding of state fish and game departments in all 50 states. They ask that they themselves, be required to buy licenses and that the money collected be used to support state conservation agencies. In the last 50 years alone, these sportsmen have provided \$2.5 billion for conservation programs.

Hunters and fishermen asked for the establishment of regulated seasons and bag limits so that sportsmen could harvest the annual crop of game and fish without damage to the basic breeding populations. The result has been that there are now more deer, elk, antelope and wild turkey in the United States than there were 50 years ago. Further, sportsmen's programs have benefited numerous species of non-game fish and wildlife through habitat development.

Hunters and fishermen, unique in all America, asked that their fishing and hunting equipment be taxed and that the money be used for land acquisition, research and habitat management for fish and wildlife for the enjoyment of all Americans.

MEMORANDUM  
Virginia Van Sickle  
All Commission Members  
August 24, 1988

Through their publications and organizations--such as the National Wildlife Federation, Ducks Unlimited, Izaak Walton League of America, and many others, hunters and fishermen have led the nation in the battle for a better environment and the wise use of our natural resources.

This year Hank Williams, Jr. is the National Honorary Chairman and the theme is "LET'S GET IT DONE--FOR THE TRADITION AND FOR THE FUN". We would like the commission to aid us by proclaiming September 24, 1988 as National Hunting & Fishing Day in Louisiana. This will help insure the rich American tradition of hunting and fishing and to also insure a healthy future for the sport so many of our citizens enjoy.

Therefore, I would like to recommend that the Commission encourage and proclaim September 24, 1988, as National Hunting & Fishing Day in our State.

  
\_\_\_\_\_  
Bob Dennie  
Information & Education Director

BD/jw

AUGUST 1988 CASE REPORT

REGION I

TOTAL CASES-54

ENFORCEMENT-54  
OTHER -0

27-Boating

18-Angle Without a License (Resident or Non-Resident)

4-Fish Without Resident Pole License

3-Hunting W/O Resident License

1-Taking Or Possession of Other Non-Game Birds-No Season

1-DWI

1-Littering

CONFISCATIONS

1 owl and 1 motor

REGION 2

TOTAL CASES-108

ENFORCEMENT-108  
OTHER - 0

24-Boating

13-Angle Without a License (Resident or Non-Resident)

25-Fish Without Resident Pole License

1-Take Or Sell Commercial Fish Or Bait Species Without Commercial License

2-Take Commercial Fish W/O Commercial Gear

3-Shocking Fish

7-Use Illegal Nets

3-Hunt Or Take Deer Or Bear Closed Season

2-Hunt Or Take Deer Or Bear Illegal Hours

REGION 2 CONT'D.

- 2-Hunt Or Take Deer From Public Road
- 4-Resisting Arrest
- 1-Not Abiding By Rules And Regulations
- 4-D.W.I.
- 4-Littering
- 13-Other Than Wildlife And Fisheries

CONFISCATIONS

1 shocking device, 2 automobiles, 1 shotgun

REGION 3

TOTAL CASES-79

ENFORCEMENT-79  
OTHER -0

- 20-Boating
- 33-Angle without a license (resident or non-resident)
- 5-Fish without resident pole license
- 2-Use Gear W/O Recreational Gear License  
(Resident or Non-Resident)
- 1-Sell And/Or Buy Fish W/O Wholesale/Retail Dealer's License  
(Resident or Non-Resident)
- 4-Sell And/Or Purchase Game Fish
- 2-Blocking Passage of Fish
- 8-Buying And/Or Selling Wild Quadrupeds or Wild Birds (Except Deer)
- 2-Buying Or Selling Deer Or Meat
- 1-Buying And/Or Selling Migratory Birds
- 1-Operate ATV Vehicle On Public Roads

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REGION 3 CONT'D.

CONFISCATIONS:

7 bass, 1 blue gill, 25 crappie, 191 squirrels, 1 rabbit, 1/2 deer and 6 packs deer meat.

REGION 4

TOTAL CASES-47

ENFORCEMENT-37  
OTHER -10

15-Boating

17-Angle without a license (resident-or non-resident)

10-Fish without resident pole license

1-Take Or Sell Commercial Fish or Bait Species Without a Commercial License

1-Sell And/Or Buy Fish Without Wholesale/Retail Dealer's License

(Resident or Non-Resident)

2-Not Abiding by Rules and Regulations on WMA

1-Resisting Arrest

CONFISCATIONS

NONE

REGION 5

TOTAL CASES-240

ENFORCEMENT-203  
OTHER - 37

61-Boating

69-Angle Without a License (Resident or Non-Resident)

6-Angle Without Saltwater License (Resident or Non-Resident)

1-Taking And/Or Possessing Over Limit of Game Fish

1-Possess O/L Of Spotted Sea Trout or Red Drum

REGION 5 CONT'D.

49-Take Or Possess Undersize Red Drum Or Spotted Sea Trout

1-Fail To Have Commercial License In Possession

8-Take Or Sell Commercial Fish or Bait Species Without Commercial License

2-Take Commercial Fish Without Commercial Gear License

5-Take Or Possess Commercial Fish Without A Vessel License

(Resident or Non-Resident)

2-Sell And/Or Buy Fish Without Wholesale/Retail Dealer's License

(Resident or Non-Resident)

3-Transport Without Required License (Resident Or Non-Resident)

2-Leave Nets Unattended

1-Take Or Possess Undersize Commercial Fish

2-Possess Crabs In Berry Stage

2-Allow Another To Use Commercial License

11-Butterflying in Closed Season

2-Hunting Without Resident License

2-Hunt Wild Quadrupeds And/Or Wild Birds Illegal Hours

(Except Deer, Bear or Turkey)

5-Hunt Rabbits Closed Season

2-Illegal Possession Of Alligators, Eggs, or Their Skin

1-Not Abiding By Rules and Regulations on WMA

2-Littering

CONFISCATIONS

90 red fish, 2 butterfly nets, 60 lbs. of shrimp, 3 speckled trout, 4 rabbits,  
3 alligators, 21 lbs. of deer meat, 1 Evinrude motor.

REGION 6

TOTAL CASES-245

ENFORCEMENT-201

OTHER - 44

84-Boating

49-Angle W/O A License

8-Fish Without resident pole license

5-Angling Without Saltwater License (Resident or Non-Resident)

3-Take Or Possess Undersize Red Drum Or Spotted Sea Trout

8-Take Or Sell Commercial Fish Or Bait Species Without Commercial License

9-Take Commercial Fish W/O Commercial Gear License

3-Take Or Possess Commercial Fish Without a Vessel License

2-Sell and/or Buy Fish W/O Wholesale/Retail Dealer's License (Resident or Non-Resident)

12-Take Or Possess Undersize Commercial Fish

21-Trawling In Closed Season

11-Trawling Inside Waters W/Double Rig

2-Take Or Possess Undersize White Shrimp

1-Hunting Without Resident License

3-Hunting From Moving Vehicle and/or Aircraft

3-Hunt Wild Quadrupeds and/or Wild Birds Illegal Hours (Except deer, bear and turkey)

1-Hunt Or Discharge Firearm From Levee Road

1-Hunt Squirrel Closed Season

2-Hunting Doves Closed Season

4-Taking Or Possession Of Other Non-Game Birds (No Season)

1-Not Abiding By Rules And Regulations On WMA

4-Resisting Arrest

REGION 6 CONT'D.

2-Interfering With An Officer

1-Other Than Wildlife and Fisheries

CONFISCATIONS

2 doves, 1 blue hen, 3 red drum, 197 legal catfish, 1680 undersize catfish, 220 lbs. shrimp, 2 squirrel, 1 automobile, 1 shotgun, 9 trawls.

REGION 7

TOTAL CASES-91

ENFORCEMENT-87  
OTHER - 4

33-Boating

35-Angling W/O a License (resident or non-resident)

1-Take Undersize Speckled Trout and Red Fish

2-Take Commercial Fish W/O Commercial Gear License (Gill Net)

1-Sell Commercial Fish W/O Retail License

4-Possess Exotic Fish

1-Possess Undersize Speckled Trout (Commercial)

2-Fail To Comply With Closure Order

1-Trawl in Closed Season

1-Take Deer In Closed Season

1-Possess Illegally Taken Deer

4-Not Abiding By Rules and Regulations of WMA

4-D.W.I.

1-Littering

CONFISCATIONS

1 buck deer, 74 speckled trout, 1 undersize redfish (return to water), 2

REGION 8

TOTAL CASES-566

ENFORCEMENT-416  
OTHER -150

- 79-Boating
- 93-Angle Without a License (Resident or Non-Resident)
- 8-Fish Without Resident Pole License
- 10-Use Gear Without Recreational Gear License (Resident or Non-Resident)
- 56-Angle Without Saltwater License (Resident Or Non-Resident)
- 10-Possess Overlimit of Spotted Sea Trout or Red Drum
- 1-Fail to Have Fish Intact (Saltwater)
- 44-Take or Possess Undersize Red Drum or Spotted Sea Trout
- 5-Fail to Have Commercial License In Possession
- 29-Take Or Sell Commercial Fish Or Bait Species Without Commercial License
- 27-Take Commercial Fish Without Commercial Gear License
- 33-Take Or Possess Commercial Fish Without A Vessel License
- 3-Fail To Maintain Records
- 3-Transport W/O Required License (Resident or Non-Resident)
- 7-Possess Exotic Fish
- 7-Use Illegal Nets
- 2-Illegal Use of Monofilament
- 5-Leave Nets Unattended
- 13-Take Or Possess Undersize Commercial Fish
- 1-Blocking Passage Of Fish
- 6-Possess Crabs In Berry Stage
- 4-Allow Another To Use Commercial License
- 1-Fail To Comply With Permit Requirements

REGION 8 CONT'D.

- 1-Fail To Comply With Department Rules and Regulations (Mariculture)
- 5-Fail To Mark Floats (LaKe Ponchartrain)
- 2-Fail To Comply With Closure Order (Spotted Sea Trout)
- 56-Trawling In Closed Season
- 7-Trawling Inside Waters With Double Rig (Over 50 Feet)
- 2-Use Oversize Trawls
- 6-Butterflying In Closed Season
- 1-Use Illegal Mesh Trawl, Butterfly Nets Or Seines
- 1-Use Oversize Butterfly Nets
- 1-Take Shrimp Illegal Methods
- 2-Failure To Have Written Permission
- 4-Unlawfully Take Oysters From State Water Bottoms
- 17-Taking Oysters From Unapproved Area (Polluted)
- 2-Unlawfully Take Oysters Off A Private Lease
- 4-Unlawful Removal Of Signs From Leased Areas
- 2-Take Oysters Illegal Hours
- 1-Failure To Display Proper Number On Vessel
- 1-Possession Of Untagged Oysters

CONFISCATIONS:

75 lbs. of red fish, 377 whole red fish, 35 specs, 2 lbs. speckled filet,  
25 lbs. sheephead, 1 spanish mackerel, 3 flounder, 4 red snapper, 651 channel  
catfish, 1 cobia, 18,000 lbs. manhaden fish, 57 trawls, 2 boats, 30 lbs. crabs,  
992 whole crabs, 69 boxes crabs, 150 crab traps, 8 gill nets, 57 lbs. shrimp, 1  
seine, 17 butterfly nets, 86 sacks of oysters, 1 trailer, 5 dredges, 7 slat  
traps.

S.W.E.P.

DELTA TIDE

ENGINE HOURS: 88 Hours

TOTAL CASES: 36

BOATS CHECKED 123

12-Trawl In Closed Season

5-Four Rigging in Chandeleur Sound

3-No Commercial License

2-No Vessel License

2-No Gear License

5-Trawl Inside Water Double Rig Over Fifty Feet

3-Failure To Comply With Spotted Sea Trout Regulations (Undersize)

1-Improper Boat Numbers

1-Possession Outboard Motor Without Serial Numbers

1-Failure To Comply In No Wake Zone

CONFISCATIONS

19 Trawls, 2 butterfly nets, 2 boats, 1 motor, 2 trailers.

NOTE: RIP TIDE IN REPAIR

TOTAL CASES S.W.E.P.                    36

TOTAL CASES ENFORCEMENT:       1,185

TOTAL CASES OTHER DIVISIONS:   245

GRAND TOTAL:                               1,466

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OPERATION GAME THIEF

STATEWIDE

AUGUST, 1988

177 Calls Came in on 800 Form and 11 on OGT Form

REGION 1

7 Complaints

6 on 800 Form

1 on OGT

REGION 2

8 Complaints

6 on 800 Form

2 on OGT

REGION 3

17 Complaints

17 on 800 Form

REGION 4

5 Complaints

3 on 800 Form

2 on OGT

REGION 5

14 Complaints

11 on 800 Form

3 on OGT

Page -12-

REGION 6

28 Complaints

25 on 800 Form

3 on OGT

REGION 7

39 Complaints

39 on 800 Form

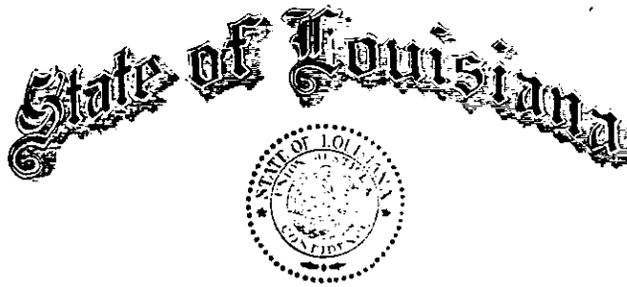
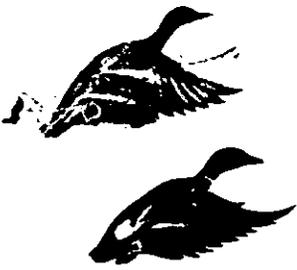
REGION 8

70 Complaints

Special Note:

Region 7 there were 2 people arrested hunting deer in closed season

Region 6 there were 3 people arrested for hunting doves in closed season



Virginia Van Sickle

SECRETARY  
150-41 925-3817

DEPARTMENT OF WILDLIFE AND FISHERIES  
POST OFFICE BOX 15570  
BATON ROUGE, LA. 70895

Buddy Roemer

GOVERNOR

August 29, 1988

Mr. James Jenkins, Jr.  
9680 S. Choctaw Dr.  
Baton Rouge, LA 70815

Dear Mr. Jenkins:

Please find enclosed the information relative to the Departments' Wallop-Breaux program that you requested from Arthur Williams, our Dingell-Johnson Coordinator. Included are figures showing the Departments' Dingell-Johnson allocation from 1985 through 1988 and a brief explanation of the stipulations attached by the Wallop-Breaux amendment to the Federal Aid in Sports Fish Restoration Act. Also included is a list of projects for which funds were obligated in fiscal years 1987 and 1988 and those selected for funding in FY 89. I have also included a copy of "The Sports Fish Restoration Program" for your review.

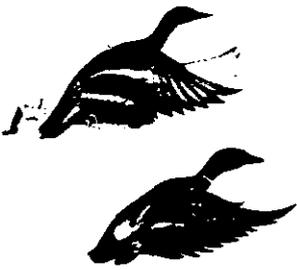
If we can be of any further service, please do not hesitate to call on us.

Sincerely,

Virginia Van Sickle  
Secretary

VVS:AMW:cgd  
Enclosures

cc: Mr. James Haneman



# State of Louisiana



Virginia Van Sickle  
SECRETARY  
(504) 925-3617

DEPARTMENT OF WILDLIFE AND FISHERIES  
POST OFFICE BOX 15570  
BATON ROUGE, LA. 70895

Buddy Roemer  
GOVERNOR

August 29, 1988

Mr. James Jenkins, Jr.  
9680 S. Choctaw Dr.  
Baton Rouge, LA 70815

CONCUR	DATE
<i>Williams</i>	<i>8/29</i>
<i>BR</i>	<i>8/30</i>
<i>Robinson</i>	<i>8/30</i>

Dear Mr. Jenkins:

Please find enclosed the information relative to the Departments' Wallop-Breaux program that you requested from Arthur Williams, our Dingell-Johnson Coordinator. Included are figures showing the Departments' Dingell-Johnson allocation from 1985 through 1988 and a brief explanation of the stipulations attached by the Wallop-Breaux amendment to the Federal Aid in Sports Fish Restoration Act. Also included is a list of projects for which funds were obligated in fiscal years 1987 and 1988 and those selected for funding in FY 89. I have also included a copy of "The Sports Fish Restoration Program" for your review.

If we can be of any further service, please do not hesitate to call on us.

Sincerely,

Virginia Van Sickle  
Secretary

VVS:AMW:cgd  
Enclosures

cc: Mr. James Haneman

Dingell-Johnson Allocations 1985-1988

1985	1986		88.7% FW WB 1987		68.0% FW WB 1988	
	Base	Expanded	Base	Expanded	Base	Expanded
\$561,702	\$590,020	\$1,208,210	\$1,041,248	\$1,261,467	\$857,838	\$1,638,712
	1,798,230		2,302,715		2,496,550	

The Wallop-Breaux Amendment to the "Federal Aid In Sports Fish Restoration Act" made an additional 1.2 - 1.6 million dollars available to the Department for funding expanded sports fish programs. The Wallop-Breaux Amendment also contained the following provisions as to how these dollars could be spent:

- 1) No less than 10% of each apportionment must be used for boating facility construction.
- 2) Coastal states must equitably distribute the "new or expanded" revenues between fresh and saltwater activities. In Louisiana this means that 25.9% of the "new" money must be spent on saltwater activities.
- 3) Up to 10% of each states apportionment may be used to fund an aquatic resource education program.
- 4) Each state must ensure that it will not shift sport fishery funds available from traditional sources out of sport fishery programs and replace these shifted funds with Wallop-Breaux funds.

85-86

FW - 895,282  
SW - 312,926  
1,208,208

NATIONAL REEF PLAN  
FISHING STRUCTURE

1986 - 87

FW - 934,707  
SW - 326,720

Projects Accepted

<u>Parish</u>	<u>Water Body</u>	<u>Type Project</u>	<u>Federal Cost</u>
Lafayette	Vermilion River	2 Boat Ramps	\$ 396,190
Assumption	Lake Verret	Boat Ramp	78,120
Iberia	Lake Dauterive	Boat Ramp	88,724
Catahoula	Larto Lake	Water Diversion Weir	440,493
*St. Tammany	Lake Pontchartrain	Boat Ramp	193,338
* STATEWIDE		NATIONAL REEF PLAN	37,500
* STATEWIDE		ARTIFICIAL REEF PLAN	62,500
			<u>1,296,505</u>

Projects Not Accepted

Ascension	Reynolds Lambert Park	Lake Construction	\$ 490,000
Lafayette	Vermilion River	Boat Ramp	220,000

1987 - 88

FW 1,214,286  
SW 424,426  
1,638,712

Projects Accepted

<u>Parish</u>	<u>Water Body</u>	<u>Type Project</u>	<u>Federal Cost</u>
St. Martin	Atchafalaya Basin	Boat Ramp	\$ 96,607
St. Martin	Atchafalaya Basin	Boat Ramp	147,225
Caddo	Cross Lake	Boat Ramp	147,148
St. Landry	Atchafalaya River	Boat Ramp	75,000
Rapides	Cotile Lake	Boat Ramp	56,250
Morehouse	Bayou Bon Idee	Boat Ramp	15,000
Avoyelles	Spring Bayou	Channel Construction	187,500
*Statewide	Gulf Coast	Artificial Reefs	98,000
*Lafourche	Bayou Lafourche	Boat Ramp	295,000
			<u>1,117,720</u>

Projects Not Accepted

Beauregard	Bundick Lake	Channel Markers	\$ 4,500
Terrebonne	Lake Houma	Shoreline Fishing	868,500
Caddo	Cross Bayou	Boat Ramp	249,500
Jefferson	Lake Pontchartrain	Boat Ramp	1,283,269
Rapides	Cotile Lake	Channel Markers	21,000
Iberia	Atchafalaya Basin	Boat Ramp	152,275

\*Marine Projects

FW. 2 257 4-

SW. 78 51

3,042,551

Projects Accepted

<u>Parish</u>	<u>Water Body</u>	<u>Type Project</u>	<u>Federal Cost</u>
Red River	Grand Bayou Reservoir	Boat Ramp	\$ 146,693
Grant	Iatt Lake	Boat Ramp	30,000
Iberia	Atchafalaya Basin	Boat Ramp	291,337
Caddo	Caddo Lake	Fishing Pier	32,104
St. Mary	Lake Palourde	Marina	205,125
Orleans	City Park Lake	Lake Renovation	225,000
Rapides	Cotile Lake	Channel Markers	20,000
Rapides	Buhlow Lake	Boat Ramp	37,500
*Vermilion	Schonner Bayou Canal	Boat Ramp	105,700
*St. Charles	N. Bonnet Carre Spillway	Boat Ramp	239,398
*Statewide	Gulf Coast	Artificial Reef	<del>114,000</del>

659,000

~~19,000~~

1,520,000

Projects Not Accepted

Jackson	Caney Creek Lake	Boat Ramp	112,000
St. Tammany	Bogue Falaya River	Boat Ramp	70,000
Natchitoches	Sibley Lake	Boat Ramp	67,500
Terrebonne	Six Foot Canal	Fishing Pier	84,000
Assumption	Bayou L'Ourse	Boat Ramp	75,000
St. Charles	S. Bonnet Carre Spillway	Boat Ramp	156,651

\*Marine Projects

800,000

To: Virginia <sup>Attn. Paula</sup> State of Louisiana  
From: Don Puckett



VIRGINIA VAN SICKLE  
SECRETARY

DEPARTMENT OF WILDLIFE AND FISHERIES  
POST OFFICE BOX 98000  
BATON ROUGE, LA 70898

BUDDY ROEMER  
GOVERNOR

August 15, 1988

MEMORANDUM

TO: Assistant Secretary and Division Chiefs  
FROM: Virginia Van Sickle *VVS*  
RE: Commission Meeting Agenda - September 8-9, 1988

Please write on the bottom of this memo and return to me by August 29th any agenda items your division may have for the meeting in Baton Rouge at Quail Drive on September 8-9, 1988. If you do not have anything for the agenda, please return memo to me and indicate this on the bottom of this memo. Also, be sure to provide Paula with a clean copy of any material that you will be distributing to the Commission so that she may make copies for the press. We cannot add anything to the agenda that requires commission action after we have published the agenda in the state journal.

Thank you for your cooperation!

VVS/pc

cc: Don Puckett ✓  
Kell McInnis  
Bettsie Baker

1) Formal award of shell dredging  
leases

*Johnnie*

# State of Louisiana



DEPARTMENT OF WILDLIFE AND FISHERIES

VIRGINIA VAN SICKLE  
SECRETARY

POST OFFICE BOX 98000  
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Thank you for your cooperation!

VVS/pc

cc: Don Puckett  
Kell McInnis *8/17/88*  
Bettsie Baker

*① Recommend dates for 1988-89 Fur Harvest Season*

*② Ratify Rules + Regs for WMA's + Refuges in F+R Div.*

RECEIVED  
DEPARTMENT OF  
WILDLIFE & FISHERIES

AUG 16 88

FUR & REFUGE  
BATON ROUGE

# State of Louisiana



DEPARTMENT OF WILDLIFE AND FISHERIES

POST OFFICE BOX 98000

BATON ROUGE, LA. 70898

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VVS/pc

cc: Don Puckett  
~~Kell McInnis~~  
Bettsie Baker ✓

*None*

Bennie

# State of Louisiana



DEPARTMENT OF WILDLIFE AND FISHERIES

POST OFFICE BOX 98000  
BATON ROUGE, LA 70898

BUDDY ROEMER  
GOVERNOR

VIRGINIA VAN SICKLE  
SECRETARY

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VVS/pc

cc: Don Puckett  
Kell McInnis  
Bettsie Baker

Bennie Fontenot:

Netting Regulations - Black and  
Clear labels, Matchsticks and  
Red River Parishes, LA.

RECEIVED  
LA. DEPT. WILDLIFE & FISHERIES  
AUG 16 1988

FISH DIVISION

*Sub Denair*

# State of Louisiana



DEPARTMENT OF WILDLIFE AND FISHERIES

VIRGINIA VAN SICKLE  
SECRETARY

POST OFFICE BOX 98000  
BATON ROUGE, LA. 70898

BUDDY ROEMER  
GOVERNOR

August 15, 1988

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VVS/pc

cc: Don Puckett  
Kell McInnis  
Bettsie Baker

*Paula:  
Nothing for this month*

*Thanks Sub Denair 8/16/88*

RECEIVED

AUG 16 1988

INFORMATION &  
EDUCATION DIV.

*Butch*

# State of Louisiana



DEPARTMENT OF WILDLIFE AND FISHERIES

POST OFFICE BOX 98000  
BATON ROUGE, LA. 70898

BUDDY ROEMER  
GOVERNOR

VIRGINIA VAN SICKLE  
SECRETARY

August 15, 1988

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VVS/pc

cc: Don Puckett  
Kell McInnis  
Bettsie Baker

- Discussion of*
- 1- Cattle Grazing, Sabine WMIA, Hugh Bateman
  - 2- Ratiifications, Special Lic. for shooting Passerines - *H. Bateman*
  - 3- Ratiifications, *Pen* Specifications, Game Breeds - *H. Bateman*

Phil

# State of Louisiana



DEPARTMENT OF WILDLIFE AND FISHERIES

POST OFFICE BOX 98000  
BATON ROUGE, LA. 70898

VIRGINIA VAN SICKLE  
SECRETARY

BUDDY ROEMER  
GOVERNOR

August 15, 1988

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Thank you for your cooperation!

VVS/pc

cc: Don Puckett  
Kell McInnis  
Bettsie Baker

*pkf*

- ① ~~Survey Rules~~
- ① Survey Report
- ② Notice of intent survey rules
- ③ Sersmre Report
- ④ Artificial Reef ~~Program~~ Program update

Winton

# State of Louisiana



DEPARTMENT OF WILDLIFE AND FISHERIES

VIRGINIA VAN SICKLE  
SECRETARY

POST OFFICE BOX 98000  
BATON ROUGE, LA. 70898

BUDDY ROEMER  
GOVERNOR

August 15, 1988

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VVS/pc

cc: Don Puckett  
Kell McInnis  
Bettsie Baker

*WINTON - ENF. case Report*

~~But [unclear]~~

# State of Louisiana



DEPARTMENT OF WILDLIFE AND FISHERIES

VIRGINIA VAN SICKLE  
SECRETARY

POST OFFICE BOX 98000  
BATON ROUGE, LA. 70898

BUDDY ROEMER  
GOVERNOR

August 15, 1988

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VVS/pc

cc: Don Puckett  
Kell McInnis  
Bettsie Baker

AGENDA  
LOUISIANA WILDLIFE AND FISHERIES COMMISSION  
BATON ROUGE, LOUISIANA  
September 8-9, 1988

1. Roll Call
2. Approval of Minutes of August 4-5, 1988
3. Netting Regulations-Black and Clear Lakes, Natchitoches and Red River Parishes, La.
4. Recommend Dates for 1988-89 Fur Harvest Season
5. Ratify Rules and Regulations for Wildlife Management Areas and Refuges in the Fur and Refuge Division
6. Oyster Survey Report
7. Notice of Intent - Survey Rules
8. Seismic Report
9. Artificial Reef Program Update
10. Discuss Wallop-Breaux Funds
11. Commercial Speckled Trout Fishing in Calcasieu Lake and Calcasieu River
12. Formal Award of Shell Dredging Leases
13. Discussion of Cattle Grazing, Saline WMA
14. Ratification of Special Shooting Preserve License
15. Ratification of Pen Specifications for Game Breeders
16. Discussion of Duck Stamp Program
17. Recognition of National Hunting and Fishing Day, Sept. 24, 1988
18. Law Enforcement Report for the month of August
19. Shikar-Safari International Wildlife Officer of the Year Award by Richard Cochran
20. Select Member for Deer Management Task Force

File

JAMES H. JENKINS, JR.  
1735 NORTH VEGA DRIVE  
BATON ROUGE, LOUISIANA 70815

August 25, 1988

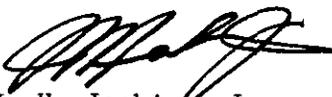
Ms. Virginia Van Sickle, Secretary  
La. Dept. Wildlife & Fisheries  
P. O. Box 15570  
Baton Rouge, La. 70895

Dear Virginia:

As you know, I and the Commission are interested in the proposed Wallop Breaux projects. This will confirm my request that this subject be brought up at the September Commission meeting.

I would further request, that no applications be forwarded to the US Fish & Wildlife until they have been discussed and reviewed by the Commission.

Sincerely,



J. H. Jenkins, Jr.  
Louisiana Wildlife & Fisheries,  
Commissioner

JHJjr:web

LA WILDLIFE & FISHERIES  
RECEIVED  
GAME DIVISION

08 AUG 29 P 2: 57



Virginia Van Sickle  
SECRETARY

DEPARTMENT OF WILDLIFE AND FISHERIES  
OFFICE OF COASTAL & MARINE RESOURCES  
SEAFOOD DIVISION  
P.O. BOX 15570  
BATON ROUGE, LOUISIANA 70895  
504/342-5876

Buddy Roemer  
GOVERNOR

COASTAL AND MARINE RESOURCES  
SEISMIC SECTION  
03-46  
ACTIVITY REPORT

FROM: August 1, 1988 THRU August 31, 1988

During this period, office and field activity consisted of:

- 1. 1 Crews that applied for permits to work
- 2. 58 Crews that we received notifications for work
- 3. 26 Crews that were working during the month
- 4. 0 Crews that cancelled work that was scheduled
- 5. 3 Crews that renewed or applied for bond to work in state

For month of August we collected  
\$ 54,587.25.00  
Collections year to date \$ 793,418.96

TOTAL ACTIVITY YEAR TO DATE:

	1987	1988
1.	<u>          </u>	<u>15</u>
2.	<u>          </u>	<u>351</u>
3.	<u>          </u>	<u>267</u>
4.	<u>          </u>	<u>3</u>
5.	<u>          </u>	<u>10</u>

DATE SUBMITTED: September 1, 1988

Motion  
Jimmy Jenkins, Jr.  
Commission Meeting  
September 8, 1988

WHEREAS, Wallop-Breaux funds are collected from taxes paid by recreational fishermen, and

WHEREAS, Wallop-Breaux funds are dedicated solely to the use in enhancing recreational fishing, and

WHEREAS, in Louisiana at least 25% of the Louisiana allocation of Wallop-Breaux funds should be used for saltwater fish projects and the current artificial reef program must by law be used for both commercial and recreational fishermen enhancement and it ... the proper vehicle for use of Wallop-Breaux funds, and

WHEREAS, inshore reefs will provide improved fishing opportunities for small boats and recreational fishermen, and

WHEREAS, the State's matching fund requirement is available to donation of materials and equipment, and

WHEREAS, specifically through R.S.56 2A the statutory role of the Commission to determine budgetary policy of the Department,

THEREFORE BE IT RESOLVED, that Wildlife and Fisheries Commission, State of Louisiana that "Feed Your Family Reef" project be included in the 1988-89 request for Wallop-Breaux funds committed by the Department, and

IT FURTHER RESOLVES, that a group be established to determine the exact location for the inshore reef to be built by the project. The group will consist of the following: Commission member, representative of the Oyster Division, of the Coastal Fisheries Institute at LSU, GCCA, Association of Charter Boat Captains, representative of the Louisiana Wildlife Federation.

BE IT RESOLVED, that the group report back to the Commission with its recommendation on at its regular scheduled meeting in November.