

LOUISIANA WILD LIFE AND FISHERIES COMMISSION

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P R O C E E D I N G S

BOARD MEETING

Tuesday, November 23, 1976

10:00 o'clock a.m.

DOYLE G. BERRY
Chairman

Wild Life and Fisheries
Building, Room 102
400 Royal Street
New Orleans, Louisiana

Kathryn G. Chamberlin,
Reporter



Helen R. Dietrich, Inc.
Stenotypists

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P R O C E E D I N G S

. . . . The regular monthly meeting of the Board of Louisiana Wild Life and Fisheries Commission convened at 10:00 o'clock a.m. on Tuesday, November 23, 1976, in Room 102 of the Wild Life and Fisheries Building, 400 Royal Street, New Orleans, Louisiana, Doyle G. Berry, Chairman, presiding. . . .

PRESENT WERE:

DOYLE G. BERRY, Chairman

JEAN LAPEYRE, Member

JIMMIE THOMPSON, Member

DONALD F. WILLE, Member

J. BURTON ANGELLE, Secretary

A G E N D A

1. Approval of minutes of September 28, 1976. (5)

DR. LYLE ST. AMANT

2. Request for renewal of permit for dredging sand and/or fill material from the Mississippi River Mile 116 AHP to Mile 117 AHP, Fairview Landing near St. Rose in St. Charles Parish, Louisiana, by (6)



OKC Dredging, Inc., formerly Jahncke Service, Inc.

- 3. Request for permit to dredge fill material from the Mississippi River, Mile 148.8 AHP, by A & P Dredging, Inc. (8)
- 4. Request from Olin Industries for reassignment of lease. (9)
- 5. Discussion of the clam industry and agreement to establish operation. (13)

MR. RICHARD YANCEY

- 6. Ratify adoption of rules relative to use of wildlife management areas for field trials. (20)
- 7. Ratify opening of Spring Bayou Wildlife Management rest area. (24)
- 8. Discuss land acquisition program. (27)

MR. KENNETH SMITH

- 9. Consider bids on Beechwood Fish Hatchery water well. (32)
- 10. Acceptance of job completion on pond renovations at Beechwood Fish Hatchery. (38)

MR. JOE HERRING

- 11. Acceptance of camp on Grassy Lake Wildlife (41)



Management Area.

- 12. Lease renewal on West Bay Wildlife Management Area. (44)
- 13. Ratify acceptance of greentree waterfowl reservoir on Loggy Bayou Wildlife Management Area. (46)
- 14. Request from Fifth District Levee Board for extension on revetment work. (48)

OTHER BUSINESS

- 15. Adoption of Rules and Procedures to conduct Hearing on Appeal on Section 26 of the Guideline and Procedures for Administration for Natural and Scenic Rivers System Act. (52)
- 16. Discussion of Act 576 relative to holding public hearings concerning areas and use of gill nets. (70)
- 17. Set date for December meeting. (76)

NOTE: The following items not on the printed agenda were also considered.

- Presentation of Civil Defense check for 1973 and 1974 floods. (5)
- Amend policy re taking of otter. (71)



Clarification of hunting regulations on (74)
property adjoining Three Rivers Wild- (74)
life Management Area.

Discussion and request for study concerning (77)
reservoir, Middle Fork, Bayou d'Arbonne,
Kisatchie National Forest.



CHAIRMAN DOYLE G. BERRY: Good morning, ladies and gentlemen. Let's get this meeting moving along.

The first item is approval of the minutes of September 28 meeting. Do I have a motion?

MR. JIMMIE THOMPSON: I so move.

MR. DONALD F. WILLE: Second.

THE CHAIRMAN: Moved by Mr. Thompson, seconded by Mr. Wille. All in favor say aye.

IN UNISON: Aye.

THE CHAIRMAN: Any opposed?

(No response)

Hearing none, so ordered.

We have with us this morning an old friend of mine and certainly of the Commission also, Jack Padgett, who wants to come up I think and dun us or present us a check or do something. Come up here, Jack.

MR. JACK PADGETT: I certainly don't want to dun you. It is my pleasure to present checks for the 1973 and 1974 floods, \$391,000.

THE CHAIRMAN: Can you make it back here each meeting?

(Laughter)

MR. PADGETT: I'll try.

THE CHAIRMAN: I wish that we had the photographer here to take a picture of this. Do we have anybody in the building who can take a picture of him presenting the checks from the Civil Defense Fund.

FROM THE FLOOR: We will get him.

THE CHAIRMAN: Jack, don't run off. I want to get a picture of you presenting this and don't forget our request, you come back every month.

Dr. St. Amant, we'll get along with you.

DR. LYLE S. ST. AMANT: Mr. Chairman, Members of the Commission, we have four items today.

The first item is a request for renewal of a permit for dredging for sand and/or fill material in the Mississippi River at Mile 116 AHP by OKC Dredging. This is a renewal of an existing permit. It has been operating successfully and without any problems. I would recommend that we renew it.

THE CHAIRMAN: Gentlemen, you have heard



the recommendation.

MR. WILLE: I move approval.

MR. THOMPSON: Second.

THE CHAIRMAN: Moved by Mr. Wille, seconded by Mr. Thompson. All in favor, say aye.

IN UNISON: Aye.

THE CHAIRMAN: Any opposed?

(No response)

Hearing none, so ordered.

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

BE IT RESOLVED that the Department of Wild Life and Fisheries does hereby grant permission to OKC Dredging, Inc. for renewal of their permit for dredging sand and/or fill material from the Mississippi River, Mile 116 AHP to Mile 117 AHP, Fairview Landing, near St. Rose in St. Charles Parish, Louisiana, for a period of one year, effective November 23, 1976, to November 23, 1977, at a royalty rate



of five cents per cubic yard.

DR. ST. AMANT: The second item is a request for a permit to dredge fill material from the Mississippi River at Mile 148.8 AHP, by the A & P Dredging Company. We have examined this request. It meets all the requirements set forth by the Commission and we find that it will have no effect on the wildlife and fisheries interests in this area. We would recommend that a permit be granted for one year at a royalty of five cents.

MR. JEAN LAPEYRE: I so move.

MR. WILLE: Second.

THE CHAIRMAN: Moved by Mr. Lapeyre and seconded by Mr. Wille. All in favor say aye.

IN UNISON: Aye.

THE CHAIRMAN: Any opposed?

(No response)

Hearing none, so ordered.

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

BE IT RESOLVED that the
Department of Wild Life and Fisheries



does hereby grant permission to A & P Dredging, Inc. to dredge for fill material from the Mississippi River at Mile 148.8 AHP, St. James Parish, Louisiana, for a period of one year, effective November 23, 1976 to November 23, 1977, at a royalty rate of five cents per cubic yard.

DR. ST. AMANT: Mr. Chairman, the third item involves the assignment of a shell lease held by Olin Corporation to Mr. J. Edwin Kyle. This company has held a lease with the Wild Life and Fisheries Commission for a good number of years and the lease is in effect until 1985.

One section of the lease deals with reassignment and it says, "The privilege of assigning this lease by the purchaser is acknowledged but such assignment shall not be binding upon the Commission until it has been furnished with a written notice of the assignment, together with a copy thereof, and approved by the Commission, except that such approval shall not be necessary or required if such assignment is made to a bona



fide successor or subsidiary of the purchaser."

The company has met all of these requirements. We have been furnished with the appropriate legal documents and copies of the documents, and they have been examined and they do meet all of the requirements set forth in the lease. Under the lease we are legally obligated to make a decision on this and I present it to the Commission today to determine whether or not they will accept this assignment.

MR. THOMPSON: I so move.

MR. WILLE: Second.

THE CHAIRMAN: Moved by Mr. Thompson, seconded by Mr. Wille. Any discussion? All in favor say aye.

IN UNISON: Aye.

THE CHAIRMAN: Any opposed?

(No response)

Hearing none, so ordered.

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

WHEREAS, the Louisiana Wild



Life and Fisheries Commission and Olin Corporation, a Virginia corporation authorized to do and doing business in the State of Louisiana, on June 20, 1958, entered into an exclusive lease, granting the latter the right and privilege of taking and removing oyster and clam shells and/or shell deposits from the specifically described water bottoms in said lease agreement; and

WHEREAS, the agreement granted Olin Corporation the privilege of assigning all of its rights, title and interest under the said agreement upon furnishing the Commission with written notice of the assignment together with the copy thereof for its approval; and

WHEREAS, Olin Corporation this day presented to the Commission a copy of a written assignment of lease to J. Edwin Kyle, Jr., in which it has specifically assigned all of its right,



title and interest into the shell lease dated June 20, 1985;

NOW, THEREFORE, BE IT RESOLVED that the assignment of lease by and between Olin Corporation and J. Edwin Kyle, Jr., in which the former assigns to the latter all of its rights, title and interest in and to the exclusive lease previously executed by Olin Corporation and Louisiana Wild Life and Fisheries Commission dated June 20, 1958, be and it is hereby approved;

BE IT FURTHER RESOLVED that the Commission hereby acknowledges that the assignee, J. Edwin Kyle, Jr., under the assignment of lease entered by and between him and Olin Corporation assumes and agrees to perform all the obligations of Olin Corporation under the original agreement, as amended, including, specifically but without limitation the obligations set forth in Articles 12 and 16 of the original exclusive lease



agreement with regard to the minimum annual royalty guarantee and the surety bond to be furnished for the faithful performance of all of the conditions and obligations imposed, described and provided for in the said agreement as amended;

BE IT FURTHER RESOLVED that the Director of this Commission be and he is hereby directed and authorized to notify in writing both Olin Corporation, assignor, and J. Edwin Kyle, Jr., assignee, that this Commission has this day approved the assignment of lease presented to it after written notice thereof had been received.

DR. ST. AMANT: The final item deals with a clam permit that we discussed at some length yesterday and which we have now redesigned to meet the questions that were raised at yesterday's meeting.

By way of background I might present what this is all about. Throughout the State of



Louisiana in those areas of salinity greater than necessary to grow oysters, there is a local clam, *Venus campisiensus*, which is very closely related to the Eastern clam that is on the market. This is an edible clam and for years there have been infrequent efforts to try to develop this as a viable food industry. None have been successful heretofore.

We now have a proposal which was presented to us by the Pausina Oyster Corporation; Captain Baldo Pausina is the vice president and he is in the audience today if you have any questions. What they propose is that the Wild Life and Fisheries Commission grant them a special exclusive permit to do studies and research in the area and to harvest clams for the market to attempt to develop a new industry.

In order to allow them to do this, we have evolved an agreement which we hope will be agreeable to all parties concerned. Basically what the agreement does is allocate to the Pausina Oyster Company an area east of the River in an area outside of the oyster seed grounds in highly saline



waters, which is in this configuration (demonstrating) on the map. This represents approximately 10,000 acres.

The agreement proposes that the permit shall be in effect for five years beginning December 1 of this year and ending December 1, 1981, at an annual rent to be \$2,000 or one percent of the gross income from the sale of clams harvested from the area, whichever is the greater. This will be payable within 30 days after the close of each quarter of operation and it is subject to an annual audit to determine the full payment for the year.

Now, in addition to this payment which will always be a minimum of \$2,000 but can escalate with the industry if it proves to be successful, we know this is a new industry, that there are no laws or legislation dealing with how it should operate, so in order to protect both the Commission and the permittee, we have included in this permit that it be made and accepted subject to all changes in the laws of the State of Louisiana or the rules of grantor, including and not limited to the subject of the yearly rental, the time and the manner



of payment, notice of rental or delinquency, and the mode and manner of forfeiture of this permit. Any and all changes in the statutory laws of the State of Louisiana and the rules and regulations of the grantor shall be held and considered as if written into this lease at the time of its signing.

Now this clause is basically this, that if they began to develop an industry, there is not much question that there will be other people that want to get involved in it, and we do not propose to come into the Commission every three or four months with a new permit of this type. We would propose that the earliest date we would go to the legislature and establish the appropriate rules and regulations for operating such an industry and at the time that the legislature passed these laws, this permittee would be subject to them. Then that in effect would abrogate this particular agreement at the time any other laws came into effect.

In addition to that, we have added, since this is in an area of rather extensive oil operations and production, in order to avoid any



controversy between the oil industry and the permittee, we state that the grantee hereby accepts the permit subject to the future and any and all existing mineral operations, including but not limited to the operation of oil and the construction of transmission pipelines and facilities.

There is one other restriction in this lease that should be clearly understood. While this gives the Pausina Oyster Company some exclusive rights within an area to attempt to develop a new industry, it does not -- I repeat, it does not -- exclude the use of this area by other interests with respect to fisheries. In other words, the permit is granted exclusively for the cultivation and harvesting of clams and in the event that oysters or any other species of shellfish are present in and on the water bottoms described herein, any person properly licensed shall have the right to enter the said water bottoms and be permitted to take said oysters and shellfish, provided they do so all in accordance with the laws of the State of Louisiana and the regulations of the grantor.



In other words, this area, if it does not begin to produce oysters or any other type of fish, it shall be handled as open waters.

With these particular restrictions and in view of the fact that we have no laws to govern this industry, I would recommend that the Commission consider the acceptance of this type of permit.

THE CHAIRMAN: Doctor, that looks like that might very well be a boon to Louisiana down the road a piece. I understand these clams grow in waters where oysters don't grow, that it is too salty, is that right?

DR. ST. AMANT: That's right, they don't commingle so there is no real interference from one industry to the other. If it proves to be successful, we could probably develop a double industry here.

MR. WILLE: Mr. Chairman, I move that we accept.

THE CHAIRMAN: It has been moved by Mr. Wille. Do we have a second?

MR. LAPEYRE: Second.

THE CHAIRMAN: Seconded by Mr. Lapeyre.



All in favor say aye.

MESSRS. LAPEYRE AND WILLE: Aye.

MR. THOMPSON: Mr. Chairman, I would like to be recorded as abstaining.

THE CHAIRMAN: Mr. Thompson abstains and I will vote for it.

MR. THOMPSON: You don't need to vote; two and one.

THE CHAIRMAN: All right, I will withdraw my vote.

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

WHEREAS, the Pausina Oyster Corporation has indicated an interest in developing a new clam fishery in the State of Louisiana; and

WHEREAS, new industries will benefit the economy of the State; and

WHEREAS, it has been determined that a temporary fishery is necessary in order to demonstrate the feasibility of a clam fishery;



NOW, THEREFORE, BE IT RESOLVED
that the Pausina Oyster Corporation be
granted an exclusive clam permit to
operate in an area east of the Mississippi
River and north of Raccoon Pass; and

FURTHERMORE, copies of this
permit with the exact description of
the area and restriction are to be placed
on file in the Department of Wild Life
and Fisheries.

THE CHAIRMAN: Mr. Yancey. Dick, in the
interest of time, I think everybody here is aware
of the fact that we had a meeting on Monday after-
noon and we did discuss this Bodcau area thoroughly.
You might just go ahead and state in your little
speech what the Commission decided on and why we
made that decision.

MR. RICHARD YANCEY: O. K. The first
item I have, Mr. Chairman, at the last meeting of
the Commission, the Commission adopted a resolution
authorizing field trials to be conducted on the
wildlife management areas that are owned and oper-
ated by the Commission. In order to comply with



the Administrative Procedures Act and the State Register and what-have-you, we need to have a resolution ratifying that action.

I might say that what has been done since the last meeting is that an application and permitting system has been set up. Some field trials have already been held, particularly on the 3,000-acre at the east end of the Fort Polk Wildlife Management Area and they worked out quite well. And so, we would recommend at this time that you adopt another resolution, ratifying the action taken and authorizing these field trials on the game management areas.

THE CHAIRMAN: Gentlemen, you have heard the recommendation.

MR. WILLE: I move.

MR. LAPEYRE: Second.

THE CHAIRMAN: Moved by Mr. Wille, seconded by Mr. Lapeyre. All in favor say aye.

IN UNISON: Aye.

THE CHAIRMAN: Any opposed?

(No response)

Hearing none, so ordered.



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

WHEREAS, the Louisiana Wild Life and Fisheries Commission at its September 28, 1976, public meeting adopted a resolution authorizing field trials on wildlife management areas, and

WHEREAS, an application and permit procedure has been developed, and

WHEREAS, it is necessary that certain rules be adopted under which permits will be issued to conduct field trials, now

THEREFORE, BE IT RESOLVED that the Louisiana Wild Life and Fisheries Commission does hereby authorize field trials to be held on wildlife management areas by recognized bird dog associations but only under the following conditions:

- (1) Field trials involving the use of bird dogs may be conducted from October 1st through March 30th



- of each year.
- (2) No shooting of quail will be allowed during the closed season.
 - (3) No shooting will be allowed during managed deer hunts or during the open turkey season on wildlife management areas.
 - (4) All quail released for field trial purposes must be banded with numbered band and a list of the numbers furnished to Louisiana Wild Life and Fisheries Commission personnel.
 - (5) Efforts will be made to recapture pen-reared quail released for field trial purposes.
 - (6) All pen-reared quail must be inspected by Louisiana Wild Life and Fisheries personnel to make sure the quail are disease-free before they can be released on the wildlife management area for field trial purposes.
 - (7) Applications must be submitted well in advance by field trial associations



specifying the date and precise location for the proposed field trial.

(8) Applications will be approved only after the field trial association has met these conditions.

(9) Applications received for the Fort Polk Wildlife Management Area must be approved by the U. S. Army.

MR. YANCEY: At the meeting the Commission held in July, 1971, a resolution was adopted, establishing a 704-acre waterfowl rest area on the Spring Bayou Wildlife Management Area in Avoyelles Parish. About two weeks ago Commission Member Marc Dupuy polled the members of the Commission to open up this rest area to waterfowl hunting. He had received many requests from sportsmen in that area to take this action, particularly in view of the fact that the Commission had put into effect noon closure for duck-hunting on that area, and it was felt that this would be adequate to hold the ducks in that area throughout the season.

We would suggest at this time that you



ratify the action taken in opening up this rest area on Spring Bayou to waterfowl hunting.

I might further add that we checked with our waterfowl biologist, Hugh Bateman, and our Spring Bayou biologist to find out what their views were on this subject, and they felt that the area could be opened up, that it had not attracted and held any large body of ducks in recent years, and consequently was serving no real useful purpose.

THE CHAIRMAN: I might add, just for the record's sake, this had been discussed with the Commission several weeks prior to this.

MR. YANCEY: Right.

THE CHAIRMAN: We talked about it and discussed it.

MR. YANCEY: It has been under discussion for the last three or four months.

THE CHAIRMAN: Gentlemen, do I have a motion?

MR. WILLE: I move.

MR. THOMPSON: Second.

THE CHAIRMAN: Moved by Mr. Wille and seconded by Mr. Thompson. All in favor say aye.



IN UNISON: Aye.

THE CHAIRMAN: Any opposed?

(No response)

So ordered.

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

WHEREAS, the Wild Life and Fisheries Commission at its regular public meeting on July 27, 1971, established a 706-acre waterfowl refuge on the Spring Bayou Wildlife Management Area in Avoyelles Parish, and

WHEREAS, it has been found that this refuge has been only lightly used by ducks and has consequently served no useful purpose, and

WHEREAS, numerous requests have been received from sportsmen in the Marksville area that the refuge be opened to waterfowl hunting, and

WHEREAS, a poll of the Commission on November 15, 1976, called



for the immediate elimination of the waterfowl rest area, now

/ THEREFORE, BE IT RESOLVED that the Louisiana Wild Life and Fisheries Commission does hereby go on record as ratifying the action taken in a poll of the Commission members on November 15, 1976, which immediately rescinded the original 1971 resolution which established the 706-acre Spring Bayou waterfowl refuge area, and

BE IT FURTHER RESOLVED that the 706-acre area is now opened to public hunting under the same regulations applied to the remainder of the Spring Bayou Wildlife Management Area.

MR. YANCEY: At the October special session of the legislature, the Commission's capital outlay request was approved and monies were allocated for land acquisition and other capital projects. \$3.5 million was approved by the legislature for land purchase out of the



Conservation Fund, and since we are five months into the fiscal year now, we need to decide on exactly how we want to use this money this fiscal year in order the the land can be purchased prior to July 1, 1977.

Some ten areas have been under consideration throughout the state for land purchase for the establishment of new game management areas and the preservation of wildlife habitat. After analyzing the individual areas one by one, it was finally concluded that the recommendation would be that this year's allocation be used to endeavor to purchase the 20,000-acre tract of bottomland hardwoods that lies on the west bank of the Boeuf River in Caldwell Parish.

It is owned by Bodcau Corporation that is headquartered in Jena. This is a timber corporation primarily, a big timber holding company in the state. We have had several meetings with Mr. Hugh Birnham, who is the head of the company in Jena, about the possibility of buying this land. We were advised by Mr. Birnham that they would sell only if the Commission exercised its authority as



set forth in R. S. 56.702 and that we have the land appraised and furnish them with a copy of the appraisal, which has been done.

We would like to recommend to the Commission that we endeavor to acquire this area this fiscal year, utilizing the funds that were allocated by the legislature. I might further add that we all know what the plight of the bottomland hardwoods is here in Louisiana. They have and are being cleared at a tremendously rapid rate. It now appears that probably the only major tracts of these lands that will be preserved in the years ahead are those that are placed in ownership by the Commission. The land clearing has been proceeding up there at a rate of about 100,000 acres a year and this is one of the few remaining last solid blocks of bottomland hardwoods that are left. It contains some eleven lakes, several cypress brakes and sloughs, several miles of bayous. It is traversed by one state highway and three or four miles of gravel road, therefore it does have good road access. The timber type is primarily a variety of oaks and hickories. It is extremely



productive of several important species of forest game, particularly deer, squirrel, rabbit. It will also support a population of wild turkey. It affords very excellent waterfowl hunting and normally attracts and produces large numbers of wood ducks and wintering populations of mallards.

At one time 12,000 acres of this 20,000-acre tract was in the Caldwell Parish Wildlife Management Area that was operated by the Commission, beginning in about 1950. The company did not renew the lease some four or five years ago.

We have endeavored to buy this property from the Bodcau Corporation for the last ten or 12 years, and it appears now that if the Commission approves of proceeding with this purchase, utilizing the authority set up in this R. S. 56.702, that it can be acquired. We would recommend this.

Now we all know that the last meeting and other meetings, several quail hunter groups have appeared before the Commission, pushing for the acquisition of a 3,000 or 4,000-acre tract which would be used for upland game management purposes. We have looked at several possible tracts



in the state over the past several months and, at this point we do not have one that we are prepared to recommend for acquisition, due to either price or restrictions by the sellers or whatever.

So, in the essence of time and the fact that this area is for certain going to be lost if it is not acquired, we feel that this is probably the best area that we have available for purchase at this time.

Now, there are people here from the Wildlife Federation and if any of those would care to comment, certainly I think it would be appropriate that they be allowed to do so.

I have letters, appraisals, maps, what-have-you on all these ten or 12 twelve tracts if anyone here would care to pursue any of these in further detail.

MR. WILLIAM FONTENOT: Mr. Chairman, I am William Fontenot, executive director of Louisiana Wildlife Federation, and we would like to go on record as supporting Mr. Yancey's recommendation to you on this. After looking at all the alternatives, we feel that this is the best opportunity to



get some of these bottomland hardwoods.

THE CHAIRMAN: Thank you, Mr. Fontenot.
Does anybody else want to make a comment on it?

(No response)

Gentlemen, you have heard the recommendation. Do I have a motion?

MR. WILLE: I move.

MR. THOMPSON: Second.

THE CHAIRMAN: It has been moved by Mr. Wille and seconded by Mr. Thompson. All in favor, say aye.

IN UNISON: Aye.

THE CHAIRMAN: Any opposed?

(No response)

Hearing none, so ordered.

Mr. Smith.

MR. KENNETH SMITH: Mr. Chairman, Members of the Commission, about three years ago we had money provided to dig a water well at the Beechwood Fish Hatchery near Alexandria to furnish water for some of our production ponds. After numerous delays we finally had Public Works open bids on this project. The lowest of five bidders



for drilling the well, which was considered a base bid, was Layne Construction Company of Lake Charles in the amount of \$19,750.

This was the lowest base bid for the well itself. An alternate bid was received on installing a pump. Now there were other lower pump bidders in this bidding process. The total amount of the bid submitted by Layne Construction was \$34,520. Now Public Works advises that we can accept the base bid for the well or we can accept both the base bid and the alternate bid for a total of \$34,520, or we could accept the base bid and re-advertise for the pump. Now what they say we cannot do is take the base bid of one contractor and the alternate bid of another. They say the contract provisions prohibit this.

It seems at this point, though Public Works recommends acceptance of the \$34,520 amount, which is the total amount of the bid, we do have an alternative to accept this base bid and re-advertise for the pump.

MR. THOMPSON: I so move.

THE CHAIRMAN: We have a motion by Mr.



SECRETARY ANGELLE: How much money are you lacking in your capital program to make up the \$34,000.

MR. SMITH: This is money that was transferred to Public Works about three years ago from another place; it is not a capital project as such now, Mr. Angelle. It is not identified as such. If we accepted the total amount, we would at this point be \$1,404 short which we would have to make up out of our budget now. If we accept the base bid of \$19,750, we have got enough money to cover that, Public Works has that. Then, if they readvertise for the pump and it comes anywhere under about 13, we have got enough money for that.

At this point, if the Commission agrees to accept the base bid, we have sufficient funds for Public Works to go ahead and pay for that.

MR. LAPEYRE: Does the delay in re-advertising affect you in any way, any significant way?

MR. SMITH: Well, not really. One of the bid provisions here is that these bids are valid for 30 days after the opening of the contract, which was November 8, but we can afford to wait.



another 30 days to readvertise this thing and bring it back to the Commission next meeting.

THE CHAIRMAN: You wouldn't have to readvertise the base portion?

MR. SMITH: No, we would accept that. If the Commission wants to accept the base bid, we can do that and award the contract for the well itself.

THE CHAIRMAN: You have reason to believe the pump will come in substantially cheaper than the, what, \$15,000?

MR. SMITH: Public Works' estimate for the pump was \$8,000, and the amount this fellow bid was \$14,770.

THE CHAIRMAN: So you would probably save \$7,000-\$8,000 rebidding the pump.

MR. SMITH: Right. There may be some associated costs if a different contractor gets the pump, but there is a pretty good chance you can get under that \$14,000.

THE CHAIRMAN: Mr. Thompson, did you want to discuss this?

MR. THOMPSON: No, I was just going to



point out that if you are in a pretty good-sized hurry, if we authorize them to readvertise today and if we can go ahead, possibly the time before a work order is given to the successful bidder on the first alternate, he will have had a chance to open the bids, next month or whenever it is, on the second alternate, on which he may be the low bidder and combine and do the whole thing at one time. He has that opportunity, instead of moving in and out.

MR. SMITH: If the contractor agrees to delay more than 30 days, he may want to do that. That is his option, you know, to close the door after 30 days or keep it open, and this may be a possibility. We will keep it in mind if it happens like that.

THE CHAIRMAN: Gentlemen, you have heard the motion.

MR. WILLE: Second.

THE CHAIRMAN: All in favor say aye.

IN UNISON: Aye.

THE CHAIRMAN: Any opposed?

(No response)



Hearing none, so ordered.

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

WHEREAS, bids were opened on
November 8, 1976, by the Louisiana
Department of Public Works for the
construction of a water well and
installation of a turbine pump at
the Beechwood Fish Hatchery, the low
base bid for the well amounting to
\$19,750 and the alternate bid which
includes the well and the pump amount-
ing to \$34,520, submitted by Layne-
Louisiana Company of Lake Charles, and

WHEREAS, the amount bid on the
turbine pump alone was \$14,770, and

WHEREAS, the estimate for the
turbine pump submitted by Public Works
was \$8,000,

THEREFORE BE IT RESOLVED, the
Louisiana Wild Life and Fisheries Com-
mission hereby approves awarding the



the contract to Layne-Louisiana Company to construct the well and request the Louisiana Department of Public Works to re-advertise for bids on the turbine pump installation.

MR. SMITH: Mr. Chairman, the next item concerns the pond renovation at the same facility, Beechwood Fish Hatchery. We have had an eight-acre pond that has been renovated. We have now about 13 one-acre ponds. This work has been certified as completed by the architect on the job, our personnel have looked at it, they agree that the work is satisfactorily completed and the federal inspectors are satisfied with the job, so I would recommend that this contract completion be formally accepted by the Board at this meeting.

THE CHAIRMAN: Gentlemen, you have heard the recommendation.

MR. WILLE: I move.

MR. LAPEYRE: Second.

THE CHAIRMAN: Moved by Mr. Wille and seconded by Mr. Lapeyre. All in favor say aye.

IN UNISON: Aye.



THE CHAIRMAN: Any opposed?

(No response)

Hearing none, so ordered.

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

WHEREAS, the architect appointed by Facilities, Planning and Control has certified the pond renovation project at the Beechwood Fish Hatchery, Contract No. 05-08-06-72-2, in the amount of \$210,576 as completed, and

WHEREAS, personnel from the Louisiana Wild Life and Fisheries Commission have inspected the work and certify the project as complete,

THEREFORE, BE IT RESOLVED that the Louisiana Wild Life and Fisheries Commission does hereby approve the above project as being complete.

THE CHAIRMAN: Thank you, Ken. Mr. Joe Herring next, please.



MR. JOE HERRING: Mr. Chairman, while I am here, I would also like to thank Mr. Jack Padgett for those checks that he presented to you earlier. I might say that most of that money was spent on the Commission's wildlife management areas after the flood of 1973. It was on Spring Bayou, Saline, Russell Sage, Three Rivers and Red River, and it was for rebuilding our headquarters facilities and also fencing work and road work. So I would just like to recognize that that is what it was for there.

SECRETARY ANGELLE: Joe, would you expand your explanation a little bit and inform the Board members, if they are not totally informed, that this money has already been spent from money that came in from the general fund in advance and this is just going through our records to clean it up and it goes right back into the state general fund so it is not money --

(Laughter)

MR. HERRING: That is why I would just like to say what it was for there. It is not money Mr. Padgett was just so generous to give us out of



the hat there, you know, but he has worked with us. I would like to say that it really has been a pleasure working with that group there. They have really helped us a lot. A lot of times in filling out forms and different things that we don't know much about sometimes for these disasters, they have really been a great help to us and we have really appreciated it. Like the Director said, this money has been spent and it was kind of loaned to us through the state and this is reimbursement.

Mr. Chairman, the first item we have on the agenda then, back in July Mr. Lawrence Desselle of Moreauville, Louisiana, offered us a little camp that he had on our Grassy Lake Wildlife Management Area when we purchased it. We went and looked at the camp there and told him that we would possibly accept this little camp as a donation to the Wild Life and Fisheries Commission provided he had it appraised at his expense.

He did have it appraised. He sent that appraisal report to us and it was appraised at a price of \$2,500. It is on Bayou Natchitoches on the Grassy Lake Wildlife Management Area, fairly



accessible to our work there. It would just go ahead and serve our purposes until such time as we could have something else built there. We could use it for storage and also sleeping quarters for our people working on the area. It does have bath facilities in it. It is a small camp but it is fixed up there.

I would like to recommend to the Commission then that we go ahead and accept this from Mr. Desselle as part of our Grassy Lake Wildlife Management Area at no charge to us.

THE CHAIRMAN: You have heard the recommendation.

MR. THOMPSON: I so move.

MR. WILLE: Second.

THE CHAIRMAN: Moved by Mr. Thompson, seconded by Mr. Wille. All in favor say aye.

IN UNISON: Aye.

THE CHAIRMAN: Any opposed?

(No response)

So ordered.

(The full text of the resolution is here made



a part of the record.)

WHEREAS, Mr. Lawrence Desselle, Moreauville, Louisiana, offered to the Commission free of charge his camp on the newly acquired Grassy Lake Wildlife Management Area, and

WHEREAS, personnel of the Louisiana Wild Life and Fisheries Commission met with Mr. Desselle for inspection of this camp, and

WHEREAS, Mr. Desselle has had an appraisal report made of this camp at his expense and the camp appraised at \$2,500,

NOW THEREFORE BE IT RESOLVED that the Louisiana Wild Life and Fisheries Commission accept Mr. Lawrence Desselle's camp located on Bayou Natchitoches, Grassy Lake Wildlife Management Area, and Mr. Desselle will be notified of this acceptance by letter.

MR. HERRING: Mr. Chairman, the next item



we have is a letter from Mr. Robert Reese, who is administrator for Boise Southern Company, from whom we have quite a bit of land leased free of charge, I would like to say, for the use of the sportsmen in our state through our wildlife management area program.

It is a lease renewal for some 31,000 acres of land which is on our West Bay Wildlife Management Area in Allen Parish and also our Latcher-Moore Wildlife Management Area in Vernon Parish. This lease agreement is for five years and it has the same stipulations that our lease agreements usually have with these companies, letting us have the land free of charge for public hunting purposes.

I think, along with this, when we sign our lease agreements that a letter of accommodation should go to these people, thanking them for what they have done for the sportsmen of our state in permitting this land to be used for public purposes, like they have, rather than lease it out for camps and other things.

I would recommend to the Commission at



this time that we do accept this lease renewal from
Boise Southern.

~~THE CHAIRMAN:~~ Gentlemen, you have heard
the recommendation.

MR. LAPEYRE: I move.

MR. WILLE: Second.

THE CHAIRMAN: Moved by Mr. Lapeyre,
seconded by Mr. Wille. All in favor say aye.

IN UNISON: Aye.

THE CHAIRMAN: Any opposed?

(No response)

So ordered.

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

WHEREAS, the Louisiana Wild
Life and Fisheries Commission has
received lease renewal forms from Boise
Southern Company, DeRidder, Louisiana,
for the purpose of renewing leases to
the Commission on West Bay and Lutcher
and Moore Wildlife Management Areas, and

WHEREAS, this lease agreement



is for a period of five years and it is from
a standard type lease agreement that the
Commission receives from landowners for
the purpose of managing wildlife species
for public hunting, and

WHEREAS, the lease agreement
from West Bay Wildlife Management Area
located in Allen Parish consists of
approximately 31,000 acres and the lease
agreement for Lutcher and Moore Wildlife
Management Area in Vernon Parish consists
of approximately 54,296.436 acres, and

WHEREAS, Boise Southern has
been a great cooperator with the sports-
men of our state and providing the
public hunting,

NOW THEREFORE BE IT RESOLVED
that the Louisiana Wildlife and Fisheries
Commission accept this lease renewal on
the West Bay and Lutcher and Moore Wild-
life Management Areas and write to the
officials of Boise Southern compliment-
ing them on their assistance to provide



better hunting for the sportsmen of
our state.

MR.—HERRING: Mr. Chairman, the next item we have pertains to our Loggy Bayou Wildlife Management Area in Bossier Parish. We received last month from the Department of Public Works notice that Contract No. 7047 to L. J. Earnest, Inc. of Bossier City, Louisiana, had been completed. This is the levee work for our waterfowl hunting area on Loggy Bayou. It was completed at that time and we went ahead and accepted the work, and I would like to ask the Commission to go ahead and accept this at this time, the ratification of it. The reason for this is so the contractor could file in the courthouse his liens and other things so that he would not lose too much interest on his money. He has to wait 45 days to complete payment there to see that everything is all right.

It is; we have already started pumping water in it and it is in good condition, and I would like to recommend to the Commission now that we accept this.

THE CHAIRMAN: You have heard the



recommendation.

MR. WILLE: I move.

MR. LAPEYRE: Second.

THE CHAIRMAN: Moved by Mr. Wille and seconded by Mr. Lapeyre. All in favor say aye.

IN UNISON: Aye.

THE CHAIRMAN: Any opposed?

(No response)

So ordered.

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

WHEREAS, the Chief Engineer of the Department of Public Works, State of Louisiana, has certified to this Board of Commissioners that the contractor has completed Contract No. 7047, between this Louisiana Wild Life and Fisheries Commission and L. J. Earnest, Inc. for waterfowl greentree reservoir, Loggy Bayou Wildlife Management Area and has recommended that the same be accepted,

NOW THEREFORE BE IT RESOLVED



by the Louisiana Wild Life and Fisheries Commission of Orleans Parish that the work done by L. J. Earnest, Inc., Bossier City, Louisiana, contractor under Contract No. 7047 with this Louisiana Wild Life and Fisheries Commission, dated June 28, 1976, be and hereby is accepted.

BE IT FURTHER RESOLVED that the Secretary be and is authorized and directed to file a certified copy of this resolution in the Mortgage Records of this Parish.

MR. HERRING: Mr. Chairman, the next thing, we have received correspondence from Mr. Leo Young, Fifth Louisiana Levee Board, more or less notifying us of some revetment work that will be done on our Red River Wildlife Management Area and our Three Rivers Wildlife Management Area along Red River River.

This revetment work will take in about 15 acres along the banks of our Red River Wildlife Management Area and about 2.5 acres along our Three Rivers Wildlife Management Area. I would



like to recommend to the Commission that we go ahead and go along with their proposals on this. This revetment work will stabilize the banks in this area and save a lot of land possibly in the future from washing on our wildlife management areas. Also, we could possibly ask for a little additional work on some other areas at the same time.

I would like to recommend to the Commission that we go ahead and permit this work. It is stipulated in there, though, that where they use our roads or anything, that we will ask that they put them back in the same condition that they were, do any of the road repair work. Most of the work here, in fact all of it, should be done from the river and there should not be any damage to roads.

THE CHAIRMAN: Gentlemen, you have heard the recommendation.

MR. THOMPSON: I so move.

MR. WILLE: Second.

THE CHAIRMAN: Moved by Mr. Thompson, seconded by Mr. Wille. All in favor say aye.

IN UNISON: Aye.



THE CHAIRMAN: Any opposed?

(No response)

So ordered.

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

WHEREAS, the Louisiana Wild
Life and Fisheries Commission has
received requests from Mr. Leo Young,
Fifth Louisiana Levee Board, for the
purpose of doing revetment work on the
banks of our Red River and Three Rivers
Wildlife Management Areas, and

WHEREAS, this revetment work
will stabilize the banks along the Red
River joining Red River and Three Rivers
Wildlife Management Areas, and

WHEREAS, this revetment work
will consist of approximately 15 acres
on the Commission-owned Red River Wild-
life Management Area and approximately
2.5 acres on the Commission-owned Three
Rivers Wildlife Management Area, and



WHEREAS, the Red River Wildlife Management Area location of work will be in Section 28, 29 and 30, T-3-N, R-7-E, and

WHEREAS, the work on the Three Rivers Wildlife Management Area is described as items M 308.5-R to 303-R,

NOW THEREFORE BE IT RESOLVED that the Fifth Louisiana District Levee Board be granted permission for this work which will be conducted by the United States Corps of Engineers on the Commission-owned Red River and Three Rivers Wildlife Management Areas, and

BE IT FURTHER RESOLVED that the Fifth District Louisiana Levee Board and the United States Corps of Engineers be held responsible for any unnecessary damages to timber, roads, fish and wildlife habitat or other property on these areas.

MR. HERRING: Thank you, Mr. Chairman.



THE CHAIRMAN: Thank you, Joe. I believe before we get into other business, Mr. Padgett, the photographer is here, we will get the pictures made and let you get back to work.

(Photographs were here taken.)

THE CHAIRMAN: Item 15, adoption of rules of procedure.

MR. GERALD MARTINEZ: Mr. Chairman and Members of the Commission, I am back once again with these rules of procedure. The Division of Administration has advertised at this time and we can proceed with the adoption of the rules for hearing on appeal in accordance with Section 26 of the Guidelines and Procedures previously adopted by the Commission.

I have presented these rules to the Commission on a prior occasion. Unless there are any questions, I would recommend their adoption, with one amendment. I would offer that Section 4 be added to Rule No. 3, dealing with costs and fees, and Section 4 would provide that failure to pay cost and fees within thirty days of the date of a bill therefor shall subject an appeal to dismissal.



with prejudice at the discretion of the Commission.
With that one addition I would recommend
their adoption.

THE CHAIRMAN: Gentlemen, you have heard
the recommendation. Do I have a motion?

MR. THOMPSON: I so move.

MR. WILLE: Second.

THE CHAIRMAN: Moved by Mr. Thompson,
seconded by Mr. Wille. Is there discussion?

MR. MARTINEZ: Mr. Chairman, I believe
Mr. Osborne --

MR. MICHAEL OSBORNE: May I speak?

THE CHAIRMAN: Yes, sir. Come forward,
please. Haven't seen you in a while.

MR. OSBORNE: It is a pleasure to see
you again.

I would like to speak to these proposed
rules because, of course, I have a very particular
interest in it. I am the attorney who is repre-
senting the Delta Chapter of the Sierra Club in
the first appeal, the only appeal I believe the
Commission has had in some six years under the
Scenic Rivers Bill.



I rather judge these rules from sort of a practical point of view. You know, are these a good workable set of rules for me to work with? Are they a good practical set of rules for you as a Commission to utilize in your decision of some of these very important issues.

I met months ago with your counsel and the Attorney General's office and we discussed the matter at some length and we realized that the adoption of these rules was going to be a very tough sort of thing. There wasn't any set of rules that were readily available to us that we could copy from.

So, let me say with regard to my specific remarks, it is with a recognition that preparation of the rules is going to be a very tough job. I am not intending any criticism of any particular person.

Now, one of the problems I see with the rules is that it is half a set of rules. The appeal that is presently pending is two different appeals. It is an appeal under the Administrative Procedures Act and it is an application under the Scenic Rivers



Guidelines that you promulgated -- one appeal under the statute passed by the legislature, a different appeal process with presumably a different set of rules under the Guidelines that you promulgated. But, as a practical matter, both of these appeals deal with one issue. They are consolidated into one, and either you have got to take this half a set of rules and say it applies to the statutory appeal, too, or you have got to have a statutory appeal procedure at the same time that you adopt these rules. Otherwise, all you can hear is half the case. I don't know how you do that sort of thing.

MR. LAPEYRE: What is the problem with doing the first thing that you said?

MR. OSBORNE: I am saying these rules deal with your guidelines under the Scenic Rivers Act. The appeal that is now pending is also an appeal under a statute of the State of Louisiana, a statute passed by the legislature, and there are different procedures. There really ought to be just one procedure but unfortunately there is two.

MR. LAPEYRE: Can there be one set?



MR. OSBORNE: I would think there could be one set, certainly, that would apply to both, and I think that would be a good thing to have, because otherwise how are you going to hear one case under two different sets of procedural rules. I mean, it could be done, but I think it would be an awkward way to do it, to have one set if you can get by with one set.

The other thing is these rules are of course something I am familiar with. What was obviously done was a set of Supreme Court rules was taken and then the words were changed to make them applicable to the Commission. Well, say there was a new court being established, like some of these parish courts, and they took the rules of the Wild Life and Fisheries Commission and tried to use them to run a court, it wouldn't come out too good. I am afraid if the Commission is going to take some Supreme Court rules and try and make it applicable to its handling of the thing, that is just the wrong place to start. It starts off awkwardly and if you read through, it rather gets worse.



One glaring omission in the rules that you have is that there is no provision for handling any of the motions that are now pending in the existing appeal or might be pending in any other appeal before the Commission. Now, the Supreme Court doesn't need to set forth in its rules the handling of this. One thing, it's got constitutional authority that deals with decision, it's got statutory authority that deals with decision, and you all don't have that kind of background.

THE CHAIRMAN: We might when we get through with this!

MR. OSBORNE: Well, perhaps so. I look at the proposed rules and there is no procedure as there should be for correcting errors in the record or supplementing the record. Almost any decision-making body has some sort of procedure for handling some sort of oversight, typographical error, supplementing. I don't have any specific suggestions to make. I am just saying when your rules are done, they ought to provide for that sort of thing.

One of the most glaring omissions is



that there is no provision in your proposed rules to even include in the record the evaluations of ~~the Office of State Planning and the Office of State Parks.~~ Now your regulations in the statute under which you work say you must take those into consideration, but here are these procedural rules you are being asked to adopt that say these things aren't even going to be a part of the record. I think it was just an oversight. It was just when the Supreme Court rules were copied over, they didn't refer to evaluations of the State Planning and State Parks.

That is certainly something you would want to correct, even in the scheme of the existing regulations, that the record include the things the law says you will take into consideration. In fact, I am confident that Dr. St. Amant and Mr. Angelle took those evaluations into consideration and they shouldn't be cut out of the record.

THE CHAIRMAN: Mike, did you perchance tell Jerry Jones and Marc Dupuy you were going to be here this morning? The only two attorneys we have on the Commission are gone. I thought you



might have forewarned them!

MR. OSBORNE: Yes, in fact we tried to ~~set up a meeting but unsuccessfully, before this.~~ I think if we had had the meeting or had I even seen a copy of the draft before it was advertised, we could have, you know, plugged a lot of these leaks in it.

One of the glaring omissions is that Rule 1, Section 5, says that an appellant, a person who can take an appeal, is one who participates in the public hearing. Well, the Commission isn't required to have a public hearing, so I think that is an oversight. It wouldn't be fair to say you can't appeal unless you participate in a public hearing but there is no public hearing, therefore you can't appeal.

I think what should have been said was that anyone who participates in the public hearing or if there is not a public hearing someone who responds to the permit request.

Looking through the costs, in a way one can't quarrel today with \$50 as being the cost of an appeal. I rather question the amount, though,



since it is double what I get charged when I go to the Supreme Court with a writ of certiorari, review, mandamus and prohibition. You get a lot more money's worth in the Supreme Court. I wonder if you want to charge a fee to the person who does an appeal to the applicant, the way it is written now. You might.

THE CHAIRMAN: You probably don't get as good a decision in the Supreme Court as you get here, though! (Laughter)

MR. OSBORNE: Probably!

Then, of course, there is a provision that isn't in the Supreme Court rules that is in your rules and that deals with, it says the cost of the conduct of the hearings shall be determined by the Commission and assessed as it deems appropriate in its discretion. You know, that's something, even the Supreme Court doesn't have that authority to assess the costs of its whole hearing. After all, you know, the State is paying the judges' salaries and per diems or whatever it is, and of course if you considered the cost of conduct of a hearing, including the fair value of the Commission's



time and consideration, you would be talking about thousands of dollars.

MR. THOMPSON: We make \$25 a day.

MR. OSBORNE: Well, I don't know. The rules might say that the cost would be assessed on the basis of your per diem, but it doesn't say what it will be assessed on. I think it rather inappropriate to take a rule and say, O. K., we have the authority to assess these great sums of money against whomsoever we wish in an appeal when the courts don't have that authority and the legislature doesn't have that authority under the constitution and I don't believe the Commission wants to take the position that it does in fact have this authority that comes about from rule-making and not by law.

THE CHAIRMAN: Of course, Mike, you keep comparing the Commission with the federal courts and the Supreme Court, and that is like apples and oranges. They are two different bodies.

MR. OSBORNE: I think you are right. I think you are right, and that is the whole problem that we have in taking this set of Supreme Court



rules that you have tried to change to fit. It doesn't fit.

The rules refer to marking your brief so that you know whether it is a reply brief or it is a rehearing brief, but then you read on in the rules and there is no procedure for even filing a reply brief. What is the procedure for filing for a rehearing? It isn't in the rules and something is wrong if you have got to mark your brief as a reply or rehearing brief and the rules don't tell you when you can reply or when you can ask for a rehearing.

I would think that in any administrative decision-making thing, the rules regarding a rehearing, or say the correction of some typographical error in your decision, there ought to be some kind of procedure for it, and you don't have it as it is now.

THE CHAIRMAN: I don't really believe you can cover everything by rules and regulations. I think in some cases common sense has to prevail.

MR. OSBORNE: I agree with you, I agree with you, but I would think such an important thing



as rehearing, it ought to say, O. K., you can apply for rehearing, you can do it within 10 days or 30 days. I don't think you want a set of rules that refers to rehearings but doesn't tell anyone how to do it or when to do it.

MR. THOMPSON: Question. The adoption of these rules and regulations as presented is not steadfast, they can be altered and changed from time to time?

MR. OSBORNE: I assume they could be changed. In fact, there is a statute that deals with the obligation of the Commission or any agency to prepare a form that you can give to people so that they can suggest proposed changes. In fact, that is something that you really ought to be taking up sort of at this time, too, is establishing the procedures for changing the rules.

MR. THOMPSON: Well, I disagree with you in one respect. I don't think we here as gentlemen sitting on this Board are entirely qualified to comprehend everything that you are stating up here and it would be my suggestion that my motion to accept the rules as presented be accepted and voted



on and then that you meet with the necessary personnel and get all these things ironed out, which appears to me is going to be monumental, and certainly I don't want to sit here while that is drawn out. Then you make your recommendations to the proper subcommittees and let changes be made at a later date. I know we have put off accepting these rules and regulations for some time. Am I correct in that? Haven't we put off quite some time? We are running way behind and I hate like the dickens for your talk here today to stop us from accepting them.

I leave my motion in effect.

MR. OSBORNE: You see, one thing, the reason these rules came up as a critical matter was because of the pending controversy. In large part, through the efforts of Dr. St. Amant in requesting a meeting recently, we have gone a long way toward resolution of the whole matter. Everyone would like to avoid the whole appeal process and there have been certain proposals made. In fact, the applicant in this case has now retained a firm of consultants from LSU to come up with a



proposal that would be satisfactory to the local police jury and to the Commission and to the various other interest groups that are concerned about the bridge.

MR. THOMPSON: Are you for or against the appellant?

MR. OSBORNE: We are the appellant.

MR. THOMPSON: You are the appellant?

MR. OSBORNE: We are the appellant.

THE CHAIRMAN: Let me say this, in all honesty. Are you really concerned about these rules or are you just stalling for time?

MR. OSBORNE: No, sir, I am very much concerned about these rules. I am very much concerned about them because I don't want to have an awkward -- well, right now we have an awkward half-set of rules. I don't want to have to deal with those problems before the Commission. I need simple rules to move quickly.

MR. THOMPSON: There is no such thing in government!

THE CHAIRMAN: With lawyers there is no such thing as simple rules and it is going to be



awkward until you lawyers get together!

Go ahead, Gerald.

MR. MARTINEZ: Mike paints with a rather broad brush and I would like to go over some of it. He said that there had been some attempts to meet on these rules but they are non-existent to my knowledge. I was not at any meeting where we met on the rules themselves. We have had numerous meetings on the question of the permit proceedings but not on the rules themselves.

As a matter of fact, in an effort to prepare rules that would be acceptable, I asked the Attorney General's office to propose rules. They failed to do that. I asked them to provide us with similar rules of other agencies. To my knowledge there is no other agency in the State of Louisiana that has rules for appeals. We will be the first.

These are not simply the Supreme Court rules, as Mike suggests. They were drawn up by using some uniform rules of appeal, not the Supreme Court rules which are different from these rules. These rules were taken from a uniform rule of appeal.



guidelines and they were modified to apply to the Commission.

Mike suggests there are two procedures here. There are not two procedures. The only procedure Mike is involved in at the present time is an appeal under Section 26 of the Guidelines and Procedures which we adopted under the Administrative Procedures Act to administer the Natural and Scenic Rivers Systems Act. Section 26 provides for an appeal only for parties, persons who participated either orally or in writing at the public hearing. Therefore, the only persons who can appeal are persons who appeared either orally or in writing.

What Mike is trying to suggest is that he is a party to this application for a permit and that he has a separate appeal pending under the Administrative Procedures Act. The Attorney General's office has said he is not a party. At one point he may have become a party but he is not a party and at the present time under the Attorney General's opinion, which they did render, the only appeal pending for the Sierra Club, the applicant



in this case, is an appeal under the Guidelines and Procedures, Section 26.

As far as rules of appeal for any appeals we may receive under the Administrative Procedures Act, I think these would apply, since they have been adopted in accordance with the requirements of the Administrative Procedures Act. That is a difference that Mike and I have.

Let me say something further about meetings. After this was published I had a request for a copy of the rules from Mr. Osborne. I sent him a copy after they were published, just as I would have sent anybody in this state who asked me for a copy, I would have sent them a copy after they were published. I received a call from Mr. Osborne, asking to meet with me. I set up the meeting. He could not make one meeting at one time so I gave him another time. The meeting was set at my office and Mr. Osborne did not appear. I received a call later in the day to tell me that he could not get out of court.

But I have attempted to meet. I have attempted to obtain some type of guidelines. I



would have used guidelines if they had been presented to me, but nothing has been presented. We made every effort by this Commission, and I want to say this, this Commission has made every effort to proceed orderly in this matter. We have, as Mr. Osborne points out, only one appeal. To handle that appeal we have seven pages of rules of appeal and 12 pages of guidelines and procedures, which works out to be 19 pages per appeal at the present time.

We are not a court of appeals. We are a Commission and we have been put in the position of adopting rules that almost make us a court of appeal, but we have to have these rules. I might add also that I attempted to offer rules for this particular appeal on an ad hoc basis, which means rules just for this particular appeal. Those were rejected by Mr. Osborne, hence we had to adopt these. These are actually the result of Mr. Osborne's rejection of ad hoc rules for the conduct of the appeal that he has. Those were more simple rules, by the way, as Mr. Osborne says he would like, but he rejected those.



I will acknowledge that maybe these rules do not have everything in it that we may need or want, but we are not a court of appeals and we have to act accordingly, and these rules will handle any hearings we might have. There are no provisions for rehearing, so we need not provide for rehearing. We don't have to grant a rehearing. We are not required to grant a rehearing if we are asked to.

Beyond us, he has the right of appeal to the courts, which is provided for in the guidelines and procedures, so that we need not, we don't have to give him a rehearing if he wants one, he can go straight to the courts.

MR. THOMPSON: Are you of the opinion that this Commission can change the rules from time to time as necessary?

MR. MARTINEZ: No question about it, Mr. Thompson.

MR. THOMPSON: Then I call for the question.

THE CHAIRMAN: The question has been called for. We have a motion.

MR. WILLE: Second.



THE CHAIRMAN: All in favor say aye.

IN UNISON: Aye.

THE CHAIRMAN: Any opposed?

(No response)

Hearing none, so ordered. The rules
are adopted.

(A copy of the Rules for
Hearing on Appeal, as
adopted, is attached
hereto and made a part
hereof.)

THE CHAIRMAN: Item No. 16, Discussion
of Act 576. Do you want to handle that, Burt.

SECRETARY ANGELLE: Yes. Mr. Chairman
and Members of the Commission, during the last
legislative session, the legislature enacted Act
576, which mandates this Commission to hold public
hearings concerning the use of gill nets as they
relate to speckled trout, redbfish, and further
identify the boundaries, limits of size of fish,
time, place, day of week of who will and who will
not fish.

I am preparing an agenda for your



consideration at the next meeting, which will be I understand in the early part of December, going through public hearings in the months of January, February, March, right ahead of the legislative session. So, at the next meeting I will provide this agenda for your consideration for these public hearings dealing with the subject matter. We are mandated to do it by the legislature. It not an authorization, it is "shall have the hearings."

I am just putting the Commission on notice that there will be a series of probably four or five public hearings throughout the coastal area as it deals with this controversy.

THE CHAIRMAN: Thank you.

SECRETARY ANGELLE: Another item not on the agenda that we mentioned yesterday, under 16-A, Mr. Allan Ensminger would like to discuss the possibility of setting of taking of otter on our refuge system, setting a limit. I understand there have been problems and this is to probably resolve one of the problems allowing the harvesting of otter on a limited basis.

MR. ALLAN ENSMINGER: Thank you, Mr.



Angelle. Gentlemen of the Commission, several years ago the Commission adopted a policy restricting otter trapping on our coastal refuges and wild-life management areas assigned to the Refuge Division. Since that time the Fur Division has entered into a long-range extensive otter research program and at this time our field technicians would like to request the Commission to change its existing policy regarding trapping of otter on our refuge areas and permit each of our trappers assigned to various tracts of land on these areas to catch a quota of five otters per trapper.

We do not feel that this would have any adverse influence on the overall population and it would add substantially to the information our technicians are gathering in the field. With this in view, I would recommend to the Commission that this policy be changed and adopt the quota number.

THE CHAIRMAN: Gentlemen, you have heard the recommendation. Do we have a motion?

MR. WILLE: I so move.

MR. LAPEYRE: Second.



THE CHAIRMAN: All in favor say aye.

IN UNISON: Aye.

THE CHAIRMAN: Any opposed?

(No response)

So ordered.

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

WHEREAS, the Louisiana Wild
Life and Fisheries Commission has an
established policy prohibiting the
trapping of river otter on refuges and
wildlife management areas assigned to
the Refuge Division, and

WHEREAS, technicians of the
Fur Division and Refuge Division are
conducting long-range research studies
to better manage this species of wild-
life, and

WHEREAS, other furbearing
animals are trapped annually on these
areas,

NOW THEREFORE BE IT RESOLVED



that the Louisiana Wild Life and Fish-eries Commission does hereby amend its policy to permit a quota of five (5) river otter per trapper working for the Commission on the areas assigned to the Refuge Division, and

BE IT FURTHER RESOLVED that the carcass of these animals be retained and turned over to technicians of the Commission for research purposes.

THE CHAIRMAN: Under 16-B, Mr. Thompson, I believe you have something you want to present.

MR. THOMPSON: Mr. Chairman, Mr. Berry and Commission Members, yesterday afternoon a gentleman appeared before us and spoke to us regarding this map that I have, and you have already seen it, so I will be glad to show it to the rest of the people in case they -- and by way of explanation. This is the Three Rivers Game Management Area (indicating on map). Dick, I know you are familiar here. This (indicating) is a new area up here, the Sunk Lake Area, that we purchased recently that is not open to hunting due to the



fact that a prior lease is on it until I believe January first.

MR. YANCEY: January 1.

MR. THOMPSON: I think January 1, and therefore it has not been advertised or anything of this nature, to keep from causing a confusion.

There are the outlines of the Three Rivers Game Management Area as presently under our rules and regulations. We have since bought this piece of property (indicating) which is known as the Davis property, the one in the hash marks that I have here. There is a hunting club called Harmony Hunting Club -- that may not be the proper terminology -- that has had and does have all of this land leased and I think their lease runs out January 1, '78, or at the end of next year. They have one more year of hunting and therefore this area is not open to the general public at this particular time.

It was the intent, since this lease is on, and this lease, even though this is now state land, is owned by private individuals for one more year, it was the intent of this Commission



when we set the rules and regulations, and I would like to offer in the form of a motion now to correct a misunderstanding of intent of game regulations that this area would be so governed by the area adjoining outside the Game Management Area.

If there are any questions I will be glad to answer them.

THE CHAIRMAN: Do we have a motion?

MR. WILLE: He made the motion and I will second it.

THE CHAIRMAN: Seconded by Mr. Wille. Any discussion? All in favor say aye.

IN UNISON: Aye.

THE CHAIRMAN: Any opposed?

(No response)

So ordered.

If nobody is opposed to it, we will set the December meeting dates for the 13th and 14th. That will move it a little way from Christmas and maybe give us a little time to go Christmas shopping, too.

Yes, sir.

MR. JAMES McGOVERN: Mr. Berry, we had

one matter we would like to discuss briefly.

THE CHAIRMAN: Please come up.

MR. McGOVERN: We discussed this briefly and informally at the informal meeting yesterday. I am Jim McGovern, president of the Louisiana Wildlife Federation. We have our executive director from Baton Rouge, Willie Fontenot.

In connection with the plans for the reservoir or lake on the middle fork of Bayou d'Arbonne, there seems to be a controversy in North Louisiana about the merits pro and con. What we would really like to do is ask the Commission to try to make a study of the pros and cons rather than just go through with a reservoir decision and make some kind of report so the sportsmen can chew on it a little in the near future, maybe three or four months.

One of our oldest and most respected state board members, Johnny Rogers from North Louisiana, and some sportsmen were so concerned that they distributed a sportsmen's alert concerning what they thought were the bad, detrimental aspects of the proposed reservoir to local sportsmen.



I would like to give you a copy. It pretty much gives their position and their concern.

They take the position and have asked us to bring it to your attention and to make sure that something is done, rather than just a decision without adverting to these problems, that they feel, for one thing, that it will violate the Louisiana Natural and Scenic Streams Act, that you get a reservoir and you lose the hunting area, you lose the scenic stream and you lose the revenue from timber sales, and if I recall, and Willie can answer any questions, I believe most of the area is in the Kisatchie Forest, anyway, and it is just a little outside area, about a fourth of it, that would be non-government area and it is possible that there would be some real estate increased values for those few lakeshore owners and maybe some real estate increased values.

But, the pros and cons are of serious concern to sportsmen in North Louisiana to the point, as I say, that they have distributed, and I will be happy to give you a breakdown of what they think are the detrimental aspects of it. Apparently



they prefer not having the reservoir and keeping the stream.

As president of Louisiana Wildlife Federation and Willie as state director, executive director, we feel we should call it to your attention and ask that a more detailed study be made of the pros and cons, which seems to be a fair thing to ask, and just see if a reevaluation might have you reconsider the idea of a reservoir as such.

Thank you very much. Any questions, you can ask Mr. Fontenot.

THE CHAIRMAN: Thank you. Mr. Angelle, I believe you said yesterday you had already taken it under advisement and that you were running a study on it.

SECRETARY ANGELLE: No, we were talking about another subject, Mr. Berry. However, I don't think this Commission wants to undertake a pro or con on it. I think we need to evaluate the good, the benefits, of one type of development against leaving it in its original state, and I think this is probably what the Commission would want some information on. I think that is what you are



talking about, eh, Willie? Not just to take the cons and pros and evaluate who is for what and who is against. It is just a matter of looking at what is contemplated, what the benefits are as it deals with wildlife.

MR. WILLIAM FONTENOT: Right. Basically yesterday we didn't have this sportsmen's alert and that is why I didn't bring it up, but it appears that they have raised some questions about the fact that the Wild Life and Fisheries may not have been involved in the original proposal for the lake and that right now the persons who are recommending this lake don't have enough information to really be able to make a full evaluation of it, and we are asking the Wild Life and Fisheries to become a part of this evaluation. Whatever input you can put into it, this is what we would like to have.

SECRETARY ANGELLE: For the record, are you talking about the Chamber of Commerce recommending the lake, or something along those lines, or what?

MR. FONTENOT: There was apparently a



study done by the Agricultural Extension Service which had no reference to hardwood forest or to the fish and wildlife resources that presently exist in the area or forest values, and we would like to see something along those lines included.

MR. LAPEYRE: Who is building this?

MR. FONTENOT: It probably will be built through the Department of Public Works. We would just like to get Wild Life and Fisheries involved in the whole thing early in the stages of planning for a project of this type.

THE CHAIRMAN: Thank you, Mr. Fontenot.

SECRETARY ANGELLE: Do you have any background information on this, Dick, Kenneth?

MR. YANCEY: Well, this 4,000-acre lake is proposed by some of the local people that live there in the parish. They feel it would be an economic asset to build the lake. It would be located on the Caney (?) Division of the Kisatchie National Forest. It is federal land primarily and we have a wildlife management area there.

Basically what the Wildlife Federation is asking for here is, as I understand, that we make a



factual evaluation of just what the wildlife losses would be in terms of habitat and population and just what the gains would be in terms of fisheries. We can do this. We have done it in the past and as far as I am concerned, I think their request is in order.

Now, it is going to require some effort on the part of both the Fisheries Division and the Game Division. I think the Game Division would have to come up with a report on losses of wildlife habitat and populations and Fisheries would have to come up with a report on just what the lake would produce in terms of quantity and variety of fish.

We can do this. I don't think we have to take sides in the issue necessarily. We will produce a factual report on just what changes will occur up there. We are going from producing wildlife to producing fish on the area. We can do that and then whoever makes the decision on whether to build the lake or not to build the lake would have that information at hand. Otherwise, they will continue to more or less operate in the dark



up there as they are now.

We can do it if the Commission so desires.

MR. LAPEYRE: I move that such a study be made.

MR. THOMPSON: Second.

THE CHAIRMAN: We have a motion by Mr. Lapeyre, seconded by Mr. Thompson. All in favor say aye.

IN UNISON: Aye.

THE CHAIRMAN: Any opposed?

(No response)

So ordered.

MR. McGOVERN: Gentlemen, may I make one last comment because it is an inherent problem in here and it is a serious one.

These sportsmen, including one of our most revered board members, feel that this will violate the Louisiana Natural and Scenic Streams Act, and if it does, I am mandated, and the Federation is mandated very thoroughly that we let nothing happen to any scenic river. The Scenic Rivers Act that we got through by the hardest in the legislature, which wasn't all we wanted, is



felt to be so strongly supported by the sportsmen that we are mandated to watch as watchdogs any attempt to change or to remove from or to affect adversely the Scenic Rivers Act, and if this does violate the act and that Middle Fork is part of the scenic rivers and will be erased, I think our position would have to be that we oppose it.

But we do want to know the pros and cons. That is another legal problem. If the law says you can't flood the Middle Fork, anyway, then there is an inherent problem.

Thank you.

THE CHAIRMAN: I think you will find, as the Director just stated to me, that the Kisatchie National Forest has its own set of laws it goes by. I don't think it concerns our state laws. I wish it did.

Is there any other Commission business this morning? Does anyone else wish to be heard?

MR. WILLE: Let's adjourn.

THE CHAIRMAN: We stand adjourned.

....11:20 o'clock a.m., the meeting was adjourned....



C E R T I F I C A T E

I, the undersigned reporter, DO HEREBY CERTIFY that the above and foregoing (86 pages of typewritten matter) is a true and correct transcription of the tape recording and stenographic notes of the proceedings herein, made and transcribed by me, at the time and place hereinbefore noted.

New Orleans, Louisiana, this 21st day of December, 1976.



Kathryn G. Chamberlin,
Reporter.



RULES FOR HEARING ON APPEAL

LOUISIANA WILD LIFE AND FISHERIES COMMISSION

ADMINISTRATOR, NATURAL AND SCENIC RIVERS SYSTEM ACT

The Guidelines and Procedures for the Administration of the Natural and Scenic Rivers System Act adopted by the Louisiana Wild Life and Fisheries Commission, as Administrator of the System provides at Section 26 that the applicant or any person who participates either orally or in writing at a public hearing of the Section 17 of the Guidelines shall be entitled to appeal the decision of the Administrator to the full Wild Life and Fisheries Commission. In order to provide for the orderly conduct of hearings on appeal under the Guidelines, the Louisiana Wild Life and Fisheries Commission hereby establishes the following rules of procedure for the conduct of such hearings as may be requested.

RULE I. - DEFINITIONS

- Section 1. "Commission" the Louisiana Wild Life and Fisheries Commission.
- Section 2. "Administrator" The administrator appointed by the Louisiana Wild Life and Fisheries Commission to review permits and conduct hearings under the Guidelines and Procedures for the Administration of the Natural and Scenic Rivers Systems Act.
- Section 3. "Guidelines" The Guidelines and Procedures for Administration of the Natural and Scenic Rivers System Act adopted by the Louisiana Wild Life and Fisheries Commission.
- Section 4. "System" The Natural and Scenic Rivers Systems Act, Revised Statutes 56:1841-1849.
- Section 5. "Appellant" The applicant or any person who participates either orally, or in writing, at a public hearing under Section 17 of the Guidelines who has petitioned the Commission to appeal the decision of the administrator.
- Section 6. "Appellee" The applicant or any person who participated either orally or in writing, at the public hearing, who wishes to respond to the petition of the appellant.
- Section 7. "Rules" The rules herein set forth for the Administration of hearings on appeal under Section 26 of the Guidelines.
- Section 8. "Party" Appellant or Appellee to the appeal being prosecuted.

RULE II. - PREPARATION OF TRANSCRIPTS

- Section 1. In all cases appealed to the Commission, the original record shall be prepared by the Administrator. It shall consist of all records, exhibits, documents and other evidence presented to the Administrator by the applicant or by any person who participated either orally or in writing at a public hearing in connection with the permit request which is the subject of the appeal.
- Section 2. It shall be the responsibility of the Administrator to prepare one duplicate record. To assist him in preparing it, the Administrator may require all pleadings and other papers filed in any permit request, except public documents or other similar exhibits, to be typewritten on good, white, unglazed paper, of legal size, with a margin at the top of each page of not less than two (2) inches and at the left hand margin of not less than one (1) inch, with impressions to be on one side of the paper only, and double space, except for matters customarily single spaced and indented.
- Section 3. The original record and the duplicate thereof shall bear the certificate by the Administrator as to the completeness and authenticity thereof.
- Section 4. The original and duplicate records, properly bound, shall be transmitted to the Commission not later than thirty (30) days following the petition for appeal by Appellant. The Commission may grant to the Administrator additional time for preparation of transcript, for reasonable cause shown.
- Section 5. Upon receipt of the original and duplicate transcripts, the Commission shall notify Appellant and Appellee that the transcript is available for review at the offices of the Commission.
- Section 6. Any party wishing a copy of the transcript may obtain same by payment, in advance, of the cost of reproducing and certifying the transcript.

RULE III. - COSTS AND FEES

- Section 1. Each party to the Appeal shall pay a filing fee of Fifty and No/100's Dollars (\$50.00).
- Section 2. Costs of copying and/or certifying the transcript, or any part thereof, shall be paid in advance by any party requesting such copies.
- Section 3. The actual cost of the conduct of the hearing on appeal shall be determined by the Commission and shall be assessed at the discretion of the Commission.
- Section 4. Failure to pay cost and fees within thirty (30) days of the date of a bill therefor shall subject an appeal to dismissal with prejudice, at the discretion of the Commission.

RULE IV. - DOCKETING OF CASES AND
WITHDRAWAL OF TRANSCRIPTS

- Section 1. Cases will be docketed in the order in which they are filed and no motion or application, except such as may be presented orally before the Commission, will be entertained or considered, unless previously filed, numbered and docketed.
- Section 2. Transcripts of appeal may be withdrawn by counsel for the parties litigant upon giving written receipt therefor to the Commission and shall be returned by counsel within such period as may be fixed by the Commission at the time of withdrawal, or at any time upon the request of the Commission.
- Section 3. The original transcript of appeal shall not be withdrawn from the Commission's office after a case has been submitted, except for the purpose of preparation of applications for rehearing, in which case it shall be returned by the counsel withdrawing same within not more than three (3) days.
- Section 4. If the transcript or original record in the case, once filed in the Commission's office, is lost, mislaid or removed therefrom, either of the parties of appeal may furnish another transcript or record which shall be considered filed as of the same date as the one first filed.

RULE V. - BRIEFS

- Section 1. Not less than one (1) original and nine (9) completely legible copies of each brief must be filed with the Commission. All brief shall bear a cover or title page setting forth: a) The Title of the Commission; b) Appeal number of the case before said Commission; c) The title of the case as it appears on the Docket of the Commission; d) The title of the Administrator; e) The name of the Administrator who rendered the judgment or ruling complained of; f) A statement identifying the party on whose behalf the brief is filed, and his status before the Commission; g) The nature of the brief, whether original, supplemental or reply, and; h) The name of counsel by whom the brief is filed.
- Section 2. Briefs may be printed or multilithed in pamphlet or book form, in paper covers, 6 x 9 inches in size, or they may be typewritten or multilithed on stationary, either letter or legal size. If briefs are typewritten, the copy shall be composed of one (1) original written on bond stationary, and nine (9) completely legible copies thereof. Except for matters customarily single spaced and indented, all typewritten briefs must be double-spaced.
- Section 3. The brief on behalf of appellant shall set forth a succinct syllabus or statement of the principles of law relied upon with

corresponding citations of authority, a concise statement of the case, the action of the Administrator thereon, a specification of alleged errors relied upon, the issues presented on the appeal, and an argument confined strictly to the issues of the case, free from unnecessary repetition, giving accurate citation of the pages of the transcript and of the authorities cited.

Section 4. The brief on behalf of appellee shall contain appropriate and concise answers and arguments with reference to the complaints and arguments of appellant with accurate citations of references to the transcript and authorities.

Section 5. All briefs shall be prefaced with an index of its contents and a table of cases and authorities showing the page on which each is cited.

Section 6. The language used in any brief or document filed must be courteous and free from vile, obscene, or obnoxious expressions, and free from insulting, abusive, discourteous, or irrelevant matter or criticism of any person, class or association of persons, administrator, officer or of any institution. Any violation of this rule shall subject the author, or authors, of the brief or document to the humiliation of having such brief or document returned and to punishment for contempt of the authority of the Commission.

Section 7. The brief of appellant shall be filed not later than twenty-five (25) calendar days after the filing of the transcript of appeal, and the brief of appellee shall be filed not later than forty-five (45) calendar days after the filing of the transcript.

Briefs shall be accompanied by a certificate to the effect that a copy thereof has been delivered or mailed to opposing counsel or the opposing litigant(s) if not represented by counsel.

Section 8. In the case of briefs sent through the mail, the filing shall be deemed to be timely when the postmark shows that the brief was mailed on or before the due date.

Section 9. An extension of time within which to file a brief will be granted at the discretion of the Commission and only in cases in which good cause is shown through written motion being filed with the Commission on or before the date the brief would ordinarily be due under the appropriate rule. In each instance of such an extension being granted as to the brief on behalf of appellant, a commensurate extension of time is automatically accorded for the filing of the brief on behalf of appellee, and no action to obtain such an extension shall be necessary

on the part of the appellee or his counsel. Provided, however, that the hearing and determination of the appeal will not, on the account of such extensions being granted, be retarded.

- Section 10. Failure to file briefs timely in accordance with the above provisions shall forfeit the right of the party, so failing, to orally argue the case before the Commission.
- Section 11. In cases specially assigned for argument, advance filing of briefs shall be made as may be ordered by the Commission.
- Section 12. Supplemental briefs on the merits, or briefs in support of motions, or petitions for supervisory writs, may be filed at any time, with leave of the Commission.
- Section 13. No amicus curiae briefs may be filed without leave of the Commission.
- Section 14. No brief shall be accepted by the Commission for filing unless it complies in full with Sections 1 through 6 of this rule governing the form and content of briefs.

RULE VI. - ORAL ARGUMENTS

- Section 1. The appellant or appellants shall have the right to open and close the argument; and when there are two or more appellants in the same case, the Commission shall decide, when the case is called for argument, who shall open and who shall close the argument, unless the parties agree upon the one who shall open and upon the one who shall close the argument.
- Section 2. Sixty (60) minutes, divided equally between the opposing parties, will be allowed for oral argument in each case unless additional time is requested, for good cause, and allowed in advance of argument or unless it is apparent to the Commission, at the expiration of the allotted time, that additional time is needed for the proper presentation of the case. In like manner, time allotted for the argument may be curtailed, whenever, during the course of the argument, it becomes manifest to the Commission that counsel has fully covered all issues involved and that the points advanced by him, or other counsel with whom he is associated, are merely being repeated or re-emphasized or where the argument is being carried beyond the issues of the case. When there is conflict of interests between appellants, or appellees in any case, the Commission shall decide upon the apportionment of the time allowed them for argument unless they agree upon the apportionment.
- Section 3. In the course of oral argument counsel shall not be permitted to read from his brief, except for the purpose of quoting from cases, statutes or texts to such extent as may be necessary.

Section 4. In connection with any citation of authorities counsel shall produce and leave with the Commission until the case is decided, any book treatise or text to which reference is made and which is not otherwise conveniently available to the Commission.

Section 5. The Commission, in its discretion and at any time after a case has been submitted, may order that the case be resubmitted, with or without oral argument.

RULE VII. - EXHIBITS

All models, maps, charts, diagrams, or other exhibits brought up as a part of the record must be left with the Commission until after the case is finally disposed of and thereafter will be returned to the party submitting such exhibits. All such exhibits filed or used for purposes of illustration or explanation must be removed after final disposition of the case, within thirty (30) days after written notice given by the Commission to the party or counsel responsible for its filing or deposit; and failure to so remove shall authorize the Commission to destroy or make such other disposition thereof as the Commission may deem proper.

RULE VIII. - SESSIONS OF THE COMMISSION

Section 1. The Commission will hold sessions for the purpose of hearing an appeal at its legal domicile, or at such other location as the Commission shall deem appropriate and proper.

Section 2. All parties shall be notified, in writing, of the date, time and place of the hearing. Any party unable to attend the hearing on the date fixed by the Commission, shall notify the Commission within ten (10) days of the receipt of the notice of the date of the hearing. Thereafter, the hearing shall not be retarded or postponed, except for good cause shown.