

LOUISIANA WILDLIFE AND FISHERIES COMMISSION

BOARD MEETING

Monday, May 17, 1982
and
Tuesday, May 18, 1982

JESSE M. KNOWLES
CHAIRMAN

Baton Rouge, Louisiana

LOUISIANA WILDLIFE AND FISHERIES COMMISSION

May 17 & 18, 1982

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MINUTES OF MEETING

LOUISIANA WILDLIFE AND FISHERIES COMMISSION

Baton Rouge, Louisiana

May 17, 1982

and

May 18, 1982

Chairman Jesse M. Knowles, presiding.

Members present:

Mr. Wayne C. Ducote
Mr. James C. Farrelly
Mr. J. C. "Sonny" Gilbert
Mr. George N. Gray
Mr. Jesse M. Knowles
Mr. Ronald Menville
Mr. Charles A. Riggs

Also present:

Mr. Jesse J. Guidry, Secretary

* * *

The regular monthly meeting of the Louisiana Wildlife and Fisheries Commission was called to order by the Chairman, Mr. Jesse M. Knowles, on Monday, May 17, 1982, at 2:00 P.M., at the Baton Rouge office on Quail Drive, Baton Rouge, Louisiana.

Motion was made by Mr. Ron Menville, seconded by Mr. George N. Gray, and passed unanimously, that the Commission go into a committee of the whole.

Motion was made by Mr. George N. Gray, seconded by Mr. Charles A. Riggs, and passed unanimously, that the committee of the whole rise and report progress.

A roll call of members present was taken.

Invocation was offered by Commissioner Charles A. Riggs.

Motion was made by Mr. J. C. Gilbert, seconded by Mr. James C. Farrelly, and passed unanimously, that the minutes of the Commission Meetings held on February 19, March 16 and March 23, 1982, be adopted and the Commission dispensed with the reading of the minutes.

Mr. John D. Newsom, Assistant Secretary, said he had provided all Commission Members with a copy of a letter dated April 27, 1982, from the U. S. Fish and Wildlife Service, requesting the Commission's decision as to whether or not the Commission approves the use of steel shot on federal refuges for hunting of waterfowl this coming waterfowl season.

Mr. Newsom said it occurred to him that the Commission had at least one thing to consider if the Commission decides not to use steel shot. There would be the possibility that the U. S. Fish and Wildlife Service could close the federal refuges to public hunting this year. Mr. Newsom suggested that the Commission might want to prepare a letter to the Fish and Wildlife Service and he had drafted a letter for the Commission's consideration. The draft letter reads as follows:

"The Louisiana Wildlife and Fisheries Commission is in receipt of the recent letter regarding the use of steel shot for hunting waterfowl on federal refuges during the 1982-83 waterfowl season.

At this time, this Commission does not support nor reject the use of steel shot on federal refuges. However, inasmuch as the U. S. Fish and Wildlife Service, as administrator of federal wildlife refuges, this Commission acquiesces to regulations that you may wish to impose for waterfowl hunting during the 1982-83 hunting season on federal refuges in Louisiana."

Commissioner Farrelly asked if anything was said about an option for lead shot as opposed to steel shot should steel shot not be available in certain gauges.

Mr. Newsom said it was his personal opinion that we need to "throw the ball back in their court" and let them do what they want to do. It has been suggested that another letter should be sent stating this Commission

will not support the use of steel shot on federal refuges in 1983-84.

Commissioner Farrelly asked what would the outcome be if that letter were sent. He wanted to know if the refuges would be closed down and if that decision could be made for this year.

Mr. Newsom stated it is possible. As a result of a study which has just been completed and completely analyzed by everyone concerned that a new policy from the Fish and Wildlife Service will be established. This is a possibility and not a probability.

Chairman Knowles said the letter will not take a definitive position since there are some folks in the U. S. Fish and Wildlife Service who feel that they may not require steel shot. It takes up to 12-14 months to get this through the maze of bureaucracy so the Commission cannot do this for this season without taking the chance of losing hunting on the federal refuges.

Mr. Newsom said he had one other thing to bring before the Commission. As a result of the request yesterday, he had copies of the draft report of the study which was just completed for all the Commission Members.

Chairman Knowles thanked Mr. Newsom and said he was a very efficient man.

Commissioner Gray said this draft report was to be kept confidential according to the cooperative agreement.

Chairman Knowles confirmed this and said the Commission would keep the report confidential.

The Commission Members concurred that the draft letter as read by Mr. Newsom be sent to the U. S. Fish and Wildlife Service.

Commissioner Riggs presented a resolution concerning saltwater intrusion in southwest Louisiana, particularly in the Black Lake area near Hackberry, Louisiana.

Motion was made by Mr. Charles A. Riggs, seconded

by Mr. Ronald Menville, and passed unanimously, that the following resolution presented by Mr. Charles A. Riggs concerning saltwater intrusion in southwest Louisiana be adopted.

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

WHEREAS, coastal wetland loss due to various factors has resulted in substantial degradation of marsh and fish and wildlife habitat, and

WHEREAS, this habitat loss caused primarily by saltwater intrusion has become visibly noticeable in one particular area in Southwest Louisiana, and

WHEREAS, this site was historically a beautiful freshwater marsh habitat valuable for its furbearers, waterfowl, game animals, fishes and various types of wading birds, and

WHEREAS, the saltwater intrusion can be stemmed by remedial action at this time, and

NOW THEREFORE BE IT RESOLVED that the Louisiana Wildlife and Fisheries Commission requests that the U. S. Fish and Wildlife Service, and the National Marine Fisheries Service work with the Louisiana Department of Wildlife and Fisheries and local interests to examine the area known as Black Lake and the surrounding marshes for some solution to the saltwater intrusion problem, and

BE IT FURTHER RESOLVED that immediate action be implemented to involve the cooperating agencies in an agreement as to the causative factors and solutions to attempt restoration.

* * *

Dr. Ted Ford, Assistant Secretary, stated the Commission's Shrimp and Oyster Committee met twice since the Commission's last meeting. This Committee is chaired by Mr. James C. Farrelly. Other members of the Committee are Mr. Ronald Menville and Mr. Charles A. Riggs. Staff members attending the meetings were Dr. Ford, Mr. Schafer and industry representatives from the companies interested in considering the negotiations of the shell dredging leases for Lake Pontchartrain and Lake Maurepas as well as East and West Cote Blanche Bays and Vermilion Bay.

Dr. Ford reminded the Commissioners that by memorandum dated April 20th, prior to the last Commission Meeting, it was recommended that we have the matter announced by news release that the two shell dredging lease areas, namely Lake Pontchartrain-Lake Maurepas and East and West Cote Blanche and Vermilion Bays were up for consideration. This was handled by an early agenda news release and followed up by another news release of the agenda when it became more finalized. This matter was also brought up and announced at one of the largest Commission Meetings held during the year when the matter was referred to the Shrimp and Oyster Committee.

During this intervening period there has been considerable discussion in terms of benefits that would accrue to the State by increased royalties, increased consideration of other provisions in the interest of the Department as well as the resources of the State. Accordingly, these have been discussed extensively in Committee. The points made by the Commissioners at the last meeting were highly relevant and contributed to this process, such as, a review at five-year intervals in terms of fixing the base royalty and this is provided for. There is a provision whereby it can be increased or decreased by 25 percent depending upon economic conditions. There is a provision whereby the Department can negotiate a shell planting operation rather than accepting the royalty for shells that are dredged from the lake bottom. The increase in royalty for this particular lease (Lake Pontchartrain-Lake Maurepas) will be from 21½ up to 30½ cents a cubic yard and would become effective upon approval.

Dr. Ford said these are the strongest proposed leases ever negotiated by the Department because of the considerable input by the members of the Commission, staff, Mr. Peter Duffy, Attorney, Mr. Ted Nass, Attorney and industry representatives.

Mr. James C. Farrelly, Vice Chairman and Chairman of the Shrimp and Oyster Committee, asked Dr. Ford to give some information about the million and a half dollars that would accrue to the State.

Dr. Ford said there was a bonus provision of about \$1,141,000 over and above the increased royalty that would accrue from the Lake Pontchartrain-Lake Maurepas lease by executing them at this point in time rather than at the time the lease would expire. He also emphasized that 404 permits required by the Corps of Engineers would expire this December 31. The companies would need to make an application for an extension of the permits and a number of public hearings would probably be held by the Corps for this purpose.

Dr. Ford said the second lease, which will be discussed later, would generate to the Department a bonus of approximately \$359,000 over and above the increased royalty by this early negotiation.

Commissioner Ducote asked for a clarification of assignment of right of lessee to contract for removal of shells. In the lease there is a provision that they can contract with a third party to remove shells.

Dr. Ford said this has been a provision of the leases which he has reviewed over maybe 15 or 18 years or more and there is a continuation of it in the leases.

Commissioner Ducote asked if there was a provision to help the Department if the lessee would contract for a greater price for removal of shells than he pays. For instance, if he is paying us 30¢, does he contract with someone to remove them and he sells them on the water-bottom to that contractor, or does the contractor remove them for him and he pays the contractor for their removal?

Dr. Ford said he didn't know how that first party arrangement would work. He said as far as this Department is concerned, he did not think it would affect anything; the Department would receive its royalty.

Mr. Carl A. Torbert, Jr., President, Radcliff Materials, Inc., said he thought the only time this would come into play would be when they became involved in an industrial account with a cement plant and this would allow them, if we give them the right to dredge, to take a further depletion allowance and they, in turn, would contract with Radcliff to dredge under the same terms and conditions that they had with the Commission.

Commissioner Ducote said the provision for a five-year review was a good one and then asked Dr. Ford to explain how it would be determined if the material is more valuable in five years and how it would be determined.

Dr. Ford said this would depend upon the economic basics of supply and demand and availability of limestone in various forms.

Commissioner Ducote asked if it would have anything to do with the then prevailing price of the product or would you have to take into consideration production costs.

Dr. Ford said he thought it would be an overall analysis of whatever information we could find relative thereto. He pointed out that mainly the Department is concerned with the resource value itself. There is an escalation clause that takes care of any increase, inflation, or whatever.

Commissioner Ducote asked if this review was in excess of the Consumer Price Index (CPI) increase.

Dr. Ford answered that it was separate entirely.

Commissioner Ducote wanted to know if there was a reason why we limited the five year increase to 25 percent.

Dr. Ford said this is an increase or decrease and they felt this was reasonable.

Commissioner Ducote said he thought if we allow a decrease then we will eliminate the increases that are built up with the C.P.I.

Dr. Ford stated that may be the case and certainly we hope we don't confront a depression or something like that. In a contract of this type, there should be a provision for a decrease as well as an increase.

Commissioner Menville stated the reason why it was limited to 25 percent. One of the major factors there, and the Committee looked at it long and hard, to leave it open-ended might jeopardize financing which these companies might seek since they have millions of dollars of equipment invested in these operations. If it were open-ended, the banks might not be willing to finance these operations since we would have the right to arbitrarily increase the royalty by more than twenty-five percent.

Commissioner Menville said the way the lease is worded, the Department and the State are protected. This has to be reciprocal because there could be some new product to come out that would be much better and then the value could decrease substantially. Those are some of the factors which were used in determining the type of ceiling and floor to put in the lease.

Commissioner Sonny Gilbert said he had asked Mr. McFadden Duffy, Information Section, and others about the amount of news releases or information which had been distributed to the public. He was well aware that the Department itself has been studying this problem and this matter for quite some time. He was concerned that the information had not reached the general public concerning the leases under negotiation.

Commissioner Gilbert said he called one of the largest contractors in the state this morning. The contractor advised him that he knew nothing about it and called his people who handled this type matter. He called back in 10 minutes and said no one in his organization knew that this matter was under discussion today.

Commissioner Gilbert said his point was that if one of the largest contractors in the state knew nothing about this meeting with the leases under discussion, how can the Commission know that they have reached the public-- the people who might be interested in the negotiations of the lease.

Commissioner Gilbert stated if he were handling this matter, he would personally call each contractor in the state, or at least write each one a letter and ask if they were interested in either negotiating or bidding on the lease. He said McFadden Duffy sent out two news releases and not a man on this Commission has seen it or had heard about it.

Commissioner Gilbert asked Dr. Ford had he made any personal contacts or by letter with any of the major contractors or anyone who might be interested in discussing this matter.

Dr. Ford said he did not contact anyone concerning this matter.

Dr. Ford pointed out that Mr. Charles Decker, Corps of Engineers, issuer of 404 permits, said if a new party were to become involved, they would have to apply for a permit, carry out an environmental assessment study that may extend over a two to three year period at their own cost and then may possibly be denied a permit.

Commissioner Gilbert asked Dr. Ford whether or not Radcliff Materials would have to do the same thing.

Dr. Ford stated he believed they have already carried out this because it is not a change in operation.

Mr. George Douglas, Pontchartrain Materials, said the three companies operating in Lake Pontchartrain now are operating under the 404 permit and the permits will expire the end of this year. They hope to apply for a renewal as soon as this matter is cleared up by the Commission. They feel and have been told because of their past experience and the fact that they are qualified and experienced in operating shell dredging, they would be given a renewal permit if nothing detrimental surfaces.

Mr. George Douglas said a new party, he thought, would suffer some other qualifications.

Commissioner Gilbert said that was a point he wanted to be made aware of. The 404 permit will expire at the end of this year and they would have to reapply for a permit the same as anyone else. Radcliff has done a job that the Corps would probably issue a permit quicker than some new person.

Commissioner Gilbert said he had called a contractor and he knew nothing about it; he had not seen it in the newspaper or heard it on TV or radio. We did hear about this at our last Commission Meeting. Commissioner Gilbert said we are moving a little too fast in taking up a contract of this magnitude today. He said it would not cause any harm to delay this for thirty days.

Commissioner Gilbert stated that in that thirty days, Dr. Ford could contact personally anyone that he knew that would be interested in talking with the Commission and Department about such a lease. He thought we would be derelict in our duties if we do not pursue to the best of our ability every avenue they could to secure and get for this state as much money as we can out of this lease. This is one of the last natural resources that we have and we will not have this money any more. He said he did not know how long the shells will last in Lake Pontchartrain and he did not know whether or not Radcliff knew.

Commissioner Gilbert asked the Commission Members if they thought they were moving too hastily on this matter.

Dr. Ted Ford asked McFadden Duffy, Chief, Education and Information Section, to present some news clippings from the clipping service. Mr. Duffy presented some clippings and said the clippings were just starting to come in and there would be more later.

Dr. Ford said the Department took the initiative in suggesting a renegotiation. This is not up for consideration by any other party because we are renegotiating an existing lease.

Dr. Ford said that without this renegotiation, the lease will continue until May 28, 1984, two years from right now. The Department is interested in accelerating an increase in royalties and this is why we are recommending it to the Commission and also this would be in line with the lease that was recently negotiated. The last lease that was negotiated and this one, too, were very straightforward and "across the top of the table" procedure whereby it was well known as best as it could be handled by the Department.

Dr. Ford said he had not contacted any outside firms and he did not know of any that are interested in shell dredging, per se, today.

Chairman Knowles said he did not know of anyone who would want to talk about a lease which would be available two years from now because one lease does not expire for two years and the other one for three years.

Commissioner Gray said in this renegotiation of the lease, we are increasing the term of the lease from 1984 considerably.

Dr. Ford stated that it was for a fifteen-year term with two 5-year options and for the Commission to review the royalty level at five-year intervals.

Commissioner Gray said that even though this is a renegotiation, since all of this has come up about who we may or may not have contacted, we could also be criticized by having it said we have circumvented the normal procedure in order to keep it from coming up with interested parties. Since that has been brought up, you would almost have to be against motherhood to be against what Mr. Gilbert has brought up. He could not see where this has been done in a business-like manner without having contacted other parties not by telephone but in writing. He did not think a telephone conversation would do the job.

Dr. Ford said he was not in a position to contact anyone about a lease that may be available two years from now. He said he did not have anything to contact them about.

Commissioner Gray said he was not disagreeing with that and said Dr. Ford did not anticipate this point coming up, but it was here.

Dr. Ford said he could not move on it and the Commission could go ahead and let the leases expire and then six months before expiration, begin a negotiation or an announcement that we will consider negotiations. At this time, we do not have anything to market to anyone else.

Commissioner Ducote asked Dr. Ford what Radcliff or Pontchartrain Materials would be paying us over and above what they normally would pay over the next two years. He said, basically, that is what we are swapping for the increased term.

Commissioner Ducote said if they are paying us a million and a half dollars in excess of what we would have normally received, then we are swapping that million and a half dollars for a twenty-five year term extension.

Dr. Ford stated that was correct. We would be receiving approximately a million and a half dollars in the form of a bonus plus a greater royalty.

Commissioner Ducote stated he thought if you wanted to market this lease to another party, it could be done. The lease would not be available for two years, but when a developer goes into a five hundred million property development, he starts buying property and makes projection for sales and production and construction costs, five years in advance. As far as marketing this lease to someone else, there is a very good possibility. It would take about two years to get permits, get equipment lined up, and get financing. He thought two years would be a good time to start.

Commissioner Ducote asked Dr. Ford if he knew of any other contractor in this state or surrounding states who are presently available and capable financially and experience-wise to undertake and fulfill the requirements of this contract.

Dr. Ford was asked and he stated that he personally did not know of any firm that would be interested at this time, but it does not preclude the fact that there might be several.

Mr. George Douglas, Pontchartrain Materials, said the lease under negotiation is actually three parties: Louisiana Materials, Pontchartrain Materials, and Radcliff Materials. He said a lot of companies were aware of this lease and interest has waned because of environmental problems, Corps permits, etc. The public has known for the last thirty days that this is being talked about with the Commission. He thought that if anyone were interested, the Commission would have been contacted.

Mr. Gray asked Mr. Douglas what possible harm would it be to their companies if the Commission sent out notices and decided on this matter at our next monthly meeting.

Mr. Douglas stated that the only urgency they had, and this should have been done thirty days ago, was to apply to the Corps of Engineers for a permit. The process is going to take five or six months. Hearings will have to be held all around the Lake and in all the parishes. Letters of no objection will have to be returned from the different parties.

Mr. Douglas said that Mr. Decker, Corps of Engineers, informed him as early as the first of March that he wanted the application in. He had hoped that this matter would be completed before he made application with the Corps of Engineers. He thought it would be a good selling point to be able to tell the Corps that they had this lease for twenty-five years.

Commissioner Menville said he could see some problems develop if the Department would send out letters asking people if they were interested in performing under the terms of this type of contract. A lot of people would go into a forty-million-dollar business if they could borrow the money. There would have to be a lot of restrictions in the letter regarding qualifications--that they could perform under the contract, had the equipment, or

ability to get the equipment, etc., also the experience to perform under the contract. Some people may not have the qualifications and if they are not allowed to negotiate a lease, then the Department would have new problems.

Commissioner Riggs stated these companies could apply to the Corps for a 404 permit on the basis of the existing lease and, of course, this lease is for a long, long time--25 years plus the 2 years remaining on the lease, 27 years total. No doubt, he said, even if this were advertised, the results would be the same. He supported Commissioner Gilbert in his concern regarding publicity and the additional thirty days. He did not feel it would jeopardize anyone's interest. He would like to have it known throughout the state that the Commission is considering renegotiating the lease.

Vice Chairman Farrelly stated he was concerned that if we bring in new companies and no matter how qualified they were, in the long run it may be detrimental to the state. It is possible that the new company may not be able to get a 404 permit. There is always that chance. The chance of these gentlemen getting a 404 permit is much greater. He stated this is a good lease; the state is protected and the state certainly needs the income.

Mr. Farrelly said there were provisions in the lease whereby the state is protected. This is a good lease for the state and it is a fair lease for these gentlemen. He said Dr. Ford, as well as, his predecessor, Dr. St. Amant, had years of experience where they had problems when they tried going to the public and letting just about anybody bid on this and have a lease. In the long run, it cost the state money and this did not work out satisfactorily.

Dr. Ford stated he had experience previously when working with Dr. St. Amant. At one time, he said, this was handled on the basis of permits. Anyone wanting a permit, it would be handled just like the permits for fill material, for example. There were a number of permits issued for dredging shell in Lake Pontchartrain. At best it was a very disorganized process. It was difficult to keep up with shell production and it was thought by the

Commission at that time that the Department may not be deriving royalties that were due. There was a large number of people having permits and it became an almost "fly-by-night" situation with a lot of small permit people. The largest contractor in the state using a fill material permit operates in a very prompt manner and it occurred to him that any news release which came out from the Department, they would be aware of it.

Dr. Ford stated that Mr. Keith Price was in the audience. He said Mr. Price carried out the environmental assessment study and has advised him it would probably be three or four years for a new party to get the environmental assessment study and then they may have to get an environmental impact study.

Mr. Farrelly said he felt that anyone capable and interested in this would have contacted the Department or Commission by now. A delay of thirty days is not going to solve that situation at all. It may create more problems.

Mr. Keith Price, representing Howard, Needles, Tamman and Bergendorf Consulting Firm (an engineering and environmental firm) said at the time he did the environmental study he was with the Gulf South Research Institute.

Mr. Menville reminded the Commission that a similar lease was negotiated with Radcliff just a few months ago. He had not heard of any public outcry about the lease. Another point was revenue for the State of Louisiana. The Commission has examined leases from other states and this is as good a royalty rate as we can get for the state. If anyone questions the leases, he was prepared to defend them publicly.

Chairman Knowles said he agreed with Mr. Gilbert in most of the things he said and if this lease would be expiring next month, we would want to give everybody an opportunity but this is not the case. The Commission is renegotiating an existing lease. He said the companies have given ground when they agreed to a review

of the lease in five years. Every five years, there will be a new price that the companies will have to pay for this lease based on the All Urban Consumer Price Index. Chairman Knowles said this is a good lease for the State of Louisiana.

Dr. Ford stated he wanted to bring out one other thing. It was his understanding that unless a company had a lease, they could not apply for a 404 permit. If the existing lease is just continued and permitted to expire without a new lease, the state would lose the additional income. It may take a new party up to three or four years before a 404 permit could be obtained and no royalty income would be received during that period.

Motion was made by Mr. James C. Farrelly, seconded by Mr. Ronald Menville, that the lease as offered to the Commission be executed by the Secretary of the Department of Wildlife and Fisheries.

Substitute motion was made by Mr. J. C. Gilbert, seconded by Mr. George N. Gray, that final action on the above motion be taken at the Commission Meeting on June 29, 1982. A roll call vote was taken with Messrs. Riggs, Gray, Gilbert and Ducote voting "yes" and Messrs. Menville, Farrelly and Knowles voting "no." The vote was 4 to 3 to delay action until June 29, 1982, Commission Meeting.

Secretary Guidry asked for a clarification of "delay action." He wanted to know if the Commission will take final action on that date or is there anything the Commission wanted the Department to do or the Commission Committee which was appointed by the Commission Members.

Commissioner Gilbert said every avenue should be explored, such as, contacting any companies, corporations, or individuals that might possibly be interested in talking with the Commission or negotiating with the Commission. He suggested that there are trade journals, associated general contractors' trade journals, and numerous trade journals whereby names could be obtained.

He said he wanted the best deal for the state but it may be that we have the best deal and just wants to be sure.

Commissioner Riggs complimented the Committee for a fine job. He agreed that he would like to see a news release go out to the public outlining what the Commission proposes to do and also find out if there are any objections to the lease. He said someone might come up with some ideas that they had not thought of.

Commissioner Ducote said the 404 permit from the Corps will expire in December and the Corps is pushing for a reapplication. He said he did not want to open this up to where the major stumbling block in the whole lease is the reissuance of the 404 permit. Should the Commission put off the issuance of the lease for 30 days that would give the Commission two to three weeks to seek out people who might be capable of performing this function and then evaluate them. Then the Commission would have to come back in thirty days and say that we have someone who is capable. In the meantime, Radcliff is already qualified and has given as much as they can with the lease and contract.

Commissioner Ducote said he did not think the Commission could find out what they wanted to find out by the next meeting to take definitive action. Someone may come in expressing some interest and that would be another thirty days.

Commissioner Gray stated he thought the Commission was worrying needlessly and the Commission owed an apology to the parties involved in the lease for not having made a decision today that the Commission said they were going to do last month. As far as putting this off indefinitely, the only reason he was unsure was because an insinuation was made that there might be a bunch of other people out there that have not stepped forward.

Commissioner Riggs said he did not feel there would be any change in thirty days and agreed with Commissioner Gray that he wanted to apologize for not

making a decision today but wanted to go that extra mile to make sure and prove to the people that the Commission wants to do the right thing.

Vice Chairman Farrelly said there was another lease to be discussed and asked Dr. Ford to present this lease.

Dr. Ford stated the lease covers East and West Cote Blanche Bays and Vermilion Bay and relates to two firms: Lake Charles Dredging and Towing Company and Radcliff Materials. It would provide for an increase in royalty from 20¢ to 25¢ per cubic yd. and the current lease expires October 3, 1985.

Dr. Ford said there is a provision in this lease, as well as, the other lease for shell planting and provisions further in terms of living resources that could be used for domestic food purposes, such as, development of a Mercenaria clam industry if they occur in good numbers and if there is a demand for them, than that given area could be restricted for that process. Our experience has been when the clam production increases on the East Coast, there is a decrease of interest for production from Louisiana. A few years ago there was an exclusive permit issued on an experimental basis for Mercenaria clams on the East side of the Mississippi River, and when production increased on the East Coast the demand went down for Louisiana's clams.

Dr. Ford stated Radcliff Materials has indicated that in order to keep things on a competitive basis the recently executed "three parish" lease will be amended to incorporate similar provisions, such as, shell planting, five-year review and the clam bed if some are found that could be produced.

Commissioner Gray said it looked to him as if we are talking about the same thing and if we do this on a matter of principle, the same principle applies. We should put this one off for thirty days, he said.

Motion was made by Mr. George N. Gray, seconded by Mr. Charles A. Riggs, that the lease under discussion

be put off for thirty days. A roll call vote was taken with Messrs. Riggs, Gray, and Gilbert voting "yes" and Messrs. Menville, Farrelly, Ducote and Knowles voting "no." Motion failed.

Motion was made by Mr. Ronald Menville, seconded by Mr. James C. Farrelly, that the lease be adopted and authorize the Secretary to execute the lease and amendments to the "Three Parish" lease. A roll call vote was taken with Messrs. Ducote, Farrelly, Menville and Riggs voting "yes" and Mr. J. C. Gilbert voting "no" and Mr. George N. Gray abstained. Motion adopted.

Motion was made by Mr. Ron Menville to reconsider the vote to delay action on the first lease, seconded by Mr. George N. Gray. A roll call vote was taken with Messrs. Ducote, Farrelly, Menville, and Gray voting "yes" and Messrs. Gilbert and Riggs voting "no." Motion adopted.

The substitute motion offered earlier by Mr. J. C. Gilbert and seconded by Mr. George N. Gray to defer final action on the first lease (Lake Pontchartrain-Lake Maurepas) until June 29, 1982, be reconsidered. After much discussion about Roberts Rules of Order, Dr. Ford was recognized.

Dr. Ford stated that he would like to review with the Commission the fact that when the request for a lease in Lake Palourde came up, your meeting had a considerable attendance of people who were really opposed to the lease. They did show up on Monday afternoon; they did show up on Tuesday Morning. The news release went out the same way this did and I can assure you there has been more "sunshine" on this process than on any other that he could recall in a twenty-eight year exposure period in the Department. In principle, he concurred with Mr. Gilbert and as far as he was concerned, the Department made efforts to "lay it on the table" and have it publicly announced so that if there were any interest pro or con it would surface for your consideration.

The Chairman ruled that those voting to sustain Mr. Gilbert's original motion should vote "yes" and those opposed, should vote "no." A roll call vote was taken with Messrs. Riggs and Gilbert voting "yes" and Messrs. Menville, Farrelly and Ducote voting "no" and Mr. Gray abstained. Motion failed.

Motion was then made by Mr. James C. Farrelly, seconded by Mr. Ronald Menville, that original motion authorizing the Secretary to execute the lease for the Commission and the Department of Wildlife and Fisheries be approved. A roll call vote was taken with Messrs. Ducote, Farrelly, Menville and Riggs voting "yes" and Mr. Gilbert voting "no" and Mr. Gray abstained. Motion passed.

Commissioner Ducote said of all the boards and commissions he has served on in past years he did not remember ever voting against a fellow commission member. The only reason he did not grant the thirty-day delay which Mr. Gilbert requested was because he did not think any good would come of it. The delay would not be long enough.

Commissioner Menville expressed concern for the procedures used to bring leases before the Commission. He suggested the Department's procedures be reviewed.

Mr. Ed Lennox, representing Southern Industries Corporation and its wholly-owned affiliate, Radcliff Materials, Inc., said that while Radcliff is somewhat less of an equal partner in both of the leases here being considered today, he has been for one reason or another a central figure in the negotiations to this point and going back to the lease granted to Radcliff in September, 1981. He said that all of the people involved have dealt with the Commission in abundant good faith. The companies' representatives have not spoken with any Commission Member other than the Chairman and two Committee Members with reference to this matter.

Mr. Lennox said he sincerely regretted the obvious division this matter has created among the

members of the Commission. He did not want to be a party to such division and felt they had dealt with the Commission in good faith. He hoped the Commission had given a vote of confidence in the people with whom the Commission has been dealing with over the years. He said the Commission would find in the years to come that this is a very fine partnership for the people of Louisiana.

Chairman Knowles asked Mr. Lennox about an agreement regarding the lease with Radcliff which was approved two or three months ago that the same five-year review would be put into it.

Mr. Lennox said he was not in on the negotiations but he understood that Dr. Ford, Mr. Menville and Mr. Farrelly have been advised that Radcliff agrees to amend by some medium its former lease so that it would retain a competitive situation.

Commissioner Menville stated it was his understanding the lease would have the same explicit language that we have these two leases with respect to the five-year review clause.

Mr. Ed Lennox said Mr. Torbert, representing Radcliff, as soon as these matters are formalized, will be handled in accordance with the Commission's best judgement. They will conform to the Commission's judgement in the matter.

Commissioner Gilbert stated Mr. Ed Lennox is one of the most respected representatives or lobbyist of any group he has ever known. He has his utmost respect and felt that the members of his group are of the same caliber.

Commissioner Gilbert hoped that his resolution to prolong the signing of the lease has not created any ill will between Mr. Lennox and himself. As far as the Commission was concerned, he had not created any division. The Commission has split before on numerous items. He said he was just trying to represent the State to the best of his ability.

Mr. Ed Lennox said he has observed Mr. Gilbert's performance in public and private life for over two decades. He considered his remarks quite a compliment and they belong to a mutual admiration society.

Dr. Ted Ford presented a resolution opposing the Avoca Island Levee Extension requested by Mr. Ron Menville and recommended its adoption by the Commission. The Department feels it is of considerable interest to its position with respect to problems which will occur in the southwestern portion of Terrebonne Parish and will affect directly oyster seed ground reservations in Bay Junop and Caillou Lake (Sister Lake) and numerous private oyster leases.

Motion was made by Mr. Ronald Menville, seconded by Mr. Charles A. Riggs, and passed unanimously, that the following resolution concerning the Avoca Island Levee Extension be adopted:

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

WHEREAS, the Corps of Engineers has selected the Avoca Island Levee Extension as the only alternative to provide the authorized level of backwater flood protection to Morgan City and under-developed areas in its vicinity, without having accomplished the necessary hydrological and ecological studies prior to selection of a final alternative, and

WHEREAS, the discharge of nutrient and sediment-rich freshwater from the Atchafalaya River is a major factor controlling the rates of land gain or loss in the marshes of Terrebonne Parish and is vital in maintaining the marshes and existing salinity regimes, and

WHEREAS, the production of estuarine-dependent commercial and recreational fisheries, fur and alligator production, and the production of game animals and waterfowl is inextricably linked to the vast marsh complex which lies east of the Atchafalaya River and includes the southern three-quarters of Terrebonne Parish, and

WHEREAS, the Department of Wildlife and Fisheries' oyster seed ground reservations, Sister Lake and Bay Junop, and numerous private oyster leases are located in lower Terrebonne Parish and are dependent upon an optimal range of salinities for successful oyster production, and

WHEREAS, the levee extension would result in a restriction of discharges from the lower Atchafalaya River to the Terrebonne marsh lying to the east, thereby depriving the area of the volumes of freshwater and sediment normally contributed by the Atchafalaya River, and

WHEREAS, the Louisiana Department of Wildlife and Fisheries, the Environmental Protection Agency, and the U. S. Fish and Wildlife Service are unanimous in the conclusion that the full extension of the Avoca Island Levee would accelerate marshland loss rates and alter salinity regimes with consequential losses to fish and wildlife resources and the Commercial and recreational economies dependent upon those resources, and

NOW THEREFORE BE IT RESOLVED that the Louisiana Wildlife and Fisheries Commission hereby opposes the Avoca Island Levee Extension, and that any further consideration of this or any other structural alternative should necessarily await further ecological and hydrological analyses, development of potential mitigative measures and a serious re-evaluation of other limited structural alternatives.

BE IT FURTHER RESOLVED that the Louisiana Wildlife and Fisheries Commission recognizes the importance of flood protection for the people of St. Mary Parish and urges the Corps of Engineers to seek a more effective means to provide said flood protection.

* * *

Dr. Ted Ford gave a shrimp report to the Commission. He said that Zone II (area between Vermilion Bay

and South Pass of Mississippi River) the catch has been three to four barrels for skiffs. The larger counts are running 50-60 in the lower bay areas and in the upper areas the counts ranged from 80-100 count.

Dr. Ford stated that the dockside people feel it appears to be an average year with slightly larger shrimp. There were not as many white shrimp landed this year. The average catch on a commercial basis was 100 to 200 pounds per boat and 21-25 count. White shrimp in the 10-15 count range were running \$650.00 per barrel.

Dr. Ford then proceeded to give a catch report for each study area in coastal Louisiana.

Mr. Harry Schafer, Chief, Seafood Division, gave a report on the lifting of the oyster lease moratorium. On May 3rd they started giving out numbers to the oyster fishermen who were interested in putting in an application for acreage for oyster culture. The line started forming on the last day of April. The applicants spent three nights waiting in line to get a number for Monday morning, May 3. Up until May 7th, 170 numbers were issued and there are probably 180 people who have numbers at this time.

Mr. Schafer said on May 10th, people started coming in and getting their applications. In five days the total number of applications which have been accepted was 223. The total acreage applied for was 19,652 acres and the money taken in for that was \$53,726. Interviews have been set up through July and will continue to take numbers and give appointments through the end of this month.

Commissioner Gilbert commented that it appeared the Commission did the right thing in lifting the oyster lease moratorium.

Mr. Schafer said they had received a lot of compliments from the people coming in and a lot of new people, young people, are getting acreage for the first time. This will put some new people in the industry.

Mr. Schafer gave a monthly report of the Survey Section. During the three weeks covered in the report, they did not set up any surveys since they had to move their quarter barge during that time. The Survey crew was tying in monuments during that time in anticipation of setting up surveys.

Mr. Schafer said a total of surveys done up until this time, starting from January 1st, were 289 applications scheduled, 194 applications surveyed, 51 failed to keep the appointments, 32 applications--they were unable to survey for various reasons, 9 applications were cancelled by request, 3 restakes, and tied in 72 monuments.

Chairman Knowles announced the dates for Commission Meetings for June and July. The June monthly meeting will be June 28 and 29, 1982; the July monthly meeting will be July 26 and 27, 1982.

Mr. Mike Voisin, President, Louisiana Oyster Dealers and Growers Association, thanked the Commission for their efforts in opening the moratorium. He said it was quite a task for everyone concerned, but it was desperately needed by the industry. He also thanked the Commission for the renegotiations in the shell dredging leases and including the option of planting clam shell for the propagation of oysters. Another matter which he thanked the Commission was for their stand on the Avoca Island Levee Extension which is detrimental to their industry.

Commissioner Gilbert said it was Mike Voisin's idea for the mechanics of the way to lift the oyster lease moratorium in the manner it was done. Mike was the one that came up with the idea on exactly the way to lift the moratorium which we followed.

Commissioner Gray recommended that the Commission Committee that handles dredging contracts meet and review our procedures to see if they can be improved on to satisfy the questions that came up here today. This is something the Commission could learn a lesson from and the representatives of the industry have been exemplary in their conduct, their cooperation and their patience.

Chairman Knowles said he wanted to express his appreciation to Mr. Farrelly and Mr. Menville for the time they gave to resolving the problem and for the contract that evolved.

Motion was made by Mr. J. C. Gilbert, seconded by Mr. Charles Riggs, and passed unanimously, that the meeting be adjourned.

* * *

Jesse M. Knowles
Chairman

Jesse J. Guidry
Secretary

Minutes transcribed
by Jan Sommers,
Administrative Secretary