

# DRAFT

## Status of Recommendations from the Oyster Lease Moratorium Lifting Committee

October 15, 2015      Note: (\*) Denotes recommendations that haven't been finalized

With respect to the recommendations made by the 2010 Moratorium Lifting Committee:

Agree with Recommendation 1: Change requirements for bottom assessments conducted for Coastal Use Permit applications to keep them current. Coastal Management has an MOU with LDWF and this can be handled interagency.

Agree with Recommendation 2: Allow landowners 90 days to protest the issuance of a new lease during which time, Office of State Lands will reevaluate ownership of water bottoms and if the lease application is not protested in the 90 days, LDWF would process the application.

Agree with Recommendation 3: Allow oyster lease applicant a 90-days after the website posting during which they may withdraw their application and receive a full refund.

Agree with Recommendation 4: State auctioned leases will be considered new leases, and will be subject to all the recommendations contained in the final report; rent-delinquent leases become new leases.

Adopt amended Recommendation 5: Amend statute to exempt oil and gas operator from damage liability if oil and gas CUP predates new oyster lease applications, provided that the operator does not violate the prescriptions in the CUP. And provide for limited liability for oil and gas assets that predate the oyster lease application within prescribed buffer zones and access channels where applicable. Leases reissued prior to this statutory change and those pursuant to section 2.B of Act 808 would not be subject to this provision.

Adopt amended Recommendation 6: Before general lifting of the moratorium to allow pre-existing lease-owners to expand their leases up to 500 feet in cases where a lease formerly abutted a shoreline and the shore-line has receded over time. Also, in cases where there is 500 feet or less between two or more oyster leases, the lease-owners will be allowed to take up additional area by agreeing to split the distance equally, or if one lease-owner declines the other(s) may take up the area. The newly added water-bottom would be subject to the provisions of Recommendation 5.

Agree with Recommendation 7: Lifting the moratorium application appointments should be assigned via lottery system developed by LDWF. (Provide additional qualifications for participation?)

\*(For Further Discussion): Recommendation 8: Reevaluate water bottom ownership. Amend the statute to allow landowners to protest current leases at least 3 years prior to expiration/ renewal, during which time Office of State Lands will reevaluate ownership of the water bottoms.

If State Land Office did not claim water bottoms for the state, then LDWF would not renew the lease and if State Land Office did claim the water bottoms for the state, then LDWF would renew the lease.

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## Additional Recommendations by the current OLMLC:

Recommendation 9: The CPRA would provide the DWF and the LOTF with maps, for reference purposes only, that will depict areas of coastal water-bottoms where projected salinity changes from river diversions will likely negatively impact the cultivation of oysters. This would apply to the cumulative effects of all existing river diversions and planned river diversions in a five, ten, and twenty year time-frame.

\*(For Further Discussion) Recommendation 10: In reference to the issue of dual-claimed water-bottoms of the State, it is the general position of the committee that lifting the moratorium should not be held up because of this issue. Dual-claimed water-bottoms is a legal issue with prescriptions for adjudication already provided for, and suggesting to change anything with that is beyond the scope of this committee.

The committee, however, recommends that prior to implementing the lottery phase, private landowner or his agent(s) would have first right of refusal to apply for an oyster lease in cases where they have actively engaged in the cultivation and legal harvest of oysters on what was initially private property, and which subsequently was deemed by the State lands Office to be state owned water-bottoms. Provisions prescribed under Recommendation 6 would supersede this provision.

\*(For Further Discussion) Recommendation 11: The DWF, in working with the OLMLC would present recommended changes in the red line to define new area available for oyster leasing, and also define new area for public seed grounds (after relocation of oyster leases).

Recommendation 12: The lease-owners that had dropped their leases due to the lawsuits surrounding the freshwater impacts of the Caernarvon Diversion shall have the first right of refusal to reapply for their original water-bottom of the pre-existing lease. These leases shall not be subject to provisions under Recommendation 5.