**PUBLIC OYSTER SEED GROUND VESSEL PERMIT APPEALS BOARD**

MEETING MINUTES

APRIL 6, 2010 – 9:30 A.M.

Louisiana ROOM

LDWF HEADQUARTERS

2000 QUAIL DRIVE, BATON ROUGE, LA 70808

Board Members Present:

1. Shane Bagala, Vice Chairman
2. Wilbert Collins
3. Dan Coulon
4. Byron Encalade
5. Brad Robin

Board Members Absent:

1. Buddy Daisy
2. Rodney Fox
3. Jakov Jurisic
4. Peter Vujnovich, Jr.

Meeting called to order by Vice Chairman Bagala at 9:35am.

AGENDA

1. Approval of Minutes from Meeting of March 1, 2010

* Wilbert Collins – Motion to Accept
  + Dan Coulon – Seconded
  + MOTION CARRIED (unanimous)

1. Hearing of Previously Deferred Appeals
   1. Nuraud Thomas (attending)

* Attempting to get second permit
* Bought the boat used in October
* Boat was used to fish crabs by previous owner
  + Byron Encalade pointed out Thomas bought the boat after all qualifying periods had passed. Further, he felt a recommendation for a permit would be contrary to the law.
* Byron Encalade – Motion that Board is unable to recommend a permit
  + Wilbert Collins – Seconded
  + Discussion:
    - Collins asked Patrick Banks, LDWF Biologist Program Manager, if he thought there was any way the Board could help Thomas obtain a permit. Banks said he did not see a way for Thomas to obtain a permit through the Board, but Thomas could purchase a permitted vessel and transfer the permit to the vessel for which he is appealing, assuming the seller relinquished the permit to Thomas.
  + MOTION CARRIED (unanimous)
  1. Donald Joost (attending)
* At the previous meeting, the Board asked Joost to provide copies of cancelled checks as evidence of his claim that he sold oysters to Bayou Caddy Fisheries in February 2005.
  + Joost provided copies of three cancelled checks dated February 2005 showing three separate transactions between Bayou Caddy Fisheries and himself.

[On one check the memo indicated it was for licenses, the memo field was left blank on the other two checks.]

* + Brad Robin asked if the checks were for oysters.
  + Joost said they were.
* The Department was unable to locate trip ticket recorded landings of oysters in any of the qualifying years including 2005, which is why the vessel was denied a permit.
* Robin asked Banks if the cancelled checks are enough for the Department to issue a permit to Joost.
  + Banks said they were not and that the Department would need an acceptable trip ticket from the dealer before the Department could issue a permit, assuming the Board recommended a permit be issued.
* Robin suggested to Joost to have Bayou Caddy provide an affidavit stating the cancelled checks were for oysters.
* Robin stated he felt the cancelled checks were a step toward a permit for Joost. Dan Coulon was inclined to approve the appeal now, but he thought it would be best to keep the case with the Board. Encalade agreed with Robin’s suggestion to obtain an affidavit stating the cancelled checks were for oysters.
* Dan Coulon – Motion to Defer
  + Byron Encalade – Seconded
  + Discussion:
    - Banks reminded the Board that the information provided [affidavits and cancelled checks] maybe enough for the Board to make a recommendation, but it is not enough by law for the Department to issue a permit. The information may also be enough for the dealer to decide to submit a late trip ticket, which would have to be investigated and accepted by the Department in order for it to be part of official trip-ticket records.
    - Encalade asked if Joost could change to a hardship appeal. Joost stated he held the required licenses in only one of the qualifying years [law requires appellant to have held the required licenses in at least two of the qualifying years under a hardship appeal]. The Department verified Joost’s statement.
  + MOTION CARRIED (unanimous)
  1. Janice Moree (not attending)
* Deferred three times previously by the Board
* She did receive written notice of the meeting [as evidenced by signature return receipt] and there was “some indication” through a phone conversation between her and the Department that she would attend today’s meeting.
* She believed the vessel she purchased had a permit, but Department records did not indicate such.
* The Board had deferred her case previously to allow her time to locate and provide information in support of her appeal.
* Banks stated that Moree has not indicated to the Department that she had found additional information.
* Dan Coulon made motion to move her appeal to the end of the meeting in case she showed up to the meeting late.
  + Brad Robin agreed with Coulon’s motion.

[After all other pending appeal cases had been dealt with, the Board took up Moree’s case again. Moree still not attending.]

* Dan Coulon – Motion to Not Recommend a permit based on not receiving necessary information
  + Byron Encalade – Seconded
  + Discussion:
    - Wilbert Collins asked if Moree could come back before the Board if she found more information. Patrick Banks said if the Board made a recommendation, then her appeal case would be closed and she would not be able to come before the Board again. Coulon stated that the appellant has had roughly five months since she first submitted her appeal.
  + MOTION CARRIED (unanimous)
  1. Andrew Livings (not attending)
     + Deferred twice previously
     + Received notice of meeting [as evidenced by a signed return receipt]
     + Livings was unable to attend today’s meeting due to a meeting in Mississippi, according to a female acquaintance of Livings with whom LDWF spoke with via phone.
     + There has been no change concerning Livings’ appeal case since the previous meeting.
     + Dan Coulon – Motion to Defer once more pending Livings’ appearance with additional information at the next meeting
       - Wilbert Collins – Seconded
       - MOTION CARRIED (unanimous)
  2. John Livings (not attending)

[Board addressed Livings’ separate appeals for vessels MI-4590-BB and MI-5353-BG as one appeal]

* + - Deferred twice previously
    - Received notice of meeting [as evidenced by a signed return receipt]
    - Livings was unable to attend today’s meeting due to a meeting in Mississippi, according to a female acquaintance of Livings with whom LDWF spoke with via phone.
    - There has been no change concerning Livings’ appeal case since the previous meeting.
    - Wilbert Collins – Motion to Defer with same stipulations as was applied to Andrew Livings
      * Dan Coulon – Seconded
      * MOTION CARRIED (unanimous)
  1. Tonci Gabre (not attending)
     + Gabre was unable to take off from work to attend this meeting as per an email he sent to the Department.
     + He is in the process of collecting documentation to support his case, possibly under the 50% complete option.
     + Requested via email to LDWF to be deferred to the next meeting.
     + Wilbert Collins – Motion to Defer
       - Byron Encalade – Seconded
       - MOTION CARRIED (unanimous)
  2. Lawrence Peterson (not attending)
     + Deferred once previously
     + Received notice of meeting [as evidenced by a signed return receipt]
     + Peterson indicates in his appeal that the Department incorrectly determined his eligibility and he states the dealer failed to turn in the “proper paperwork.”
     + He informed LDWF via phone that he intended to check with the dealer to see if they could provide him with information to support his appeal case.
     + Dan Coulon – Motion to Defer with a notice to appellant that additional information is required at the next meeting
       - Byron Encalade – Seconded
       - MOTION CARRIED (unanimous)

There was some discussion among the Board and Donald Joost concerning the necessity of obtaining additional affidavits stating the cancelled checks Joost provided were for the purchase of oysters. Dan Coulon felt the affidavits previously provided by Joost and the cancelled checks were sufficient. Byron Encalade felt the checks needed further clarification as to the nature of the transaction. At the end of the discussion, no further action was taken by the Board and the Board’s previous action of deferral and the direction given to Joost remained unchanged.

1. Set next meeting date

* Dan Coulon – Motion to set next meeting date for 10:00am in conjunction with next Oyster Task Force (OTF) meeting\*
  + Wilbert Collins – Seconded
  + MOTION CARRIED (unanimous)

1. Adjournment

* Dan Coulon – Motion to Adjourn
  + Byron Encalade – Seconded
  + MOTION CARRIED (unanimous)

Meeting adjourned at 10:20am

Duration of Meeting: 45 min.

Minutes submitted by Ty Lindsey, LDWF Biologist

\*The OTF met later the same day as scheduled, but neglected to set a next meeting date.