

Minutes of the  
Oyster Lease Damage Evaluation Board  
December 3, 1997

A meeting of the Oyster Lease Damage Evaluation Board was held on Wednesday, December 3, 1997, at 1:30 p.m. in the Mineral Board Docket Room, Fourth Floor, State Land and Natural Resources Building, Baton Rouge, Louisiana.

The meeting was called to order at 1:45 p.m. by Chairman Vivian Guillory. A written roll was taken.

Board members present:

Vivian B. Guillory, ALJ, Chairman

Don Briggs, representing LIOGA and Louisiana Landowners Assn.

Phillip E. Boydston, Burlington Resources, representing Mid-Continent Oil & Gas Assn. and Louisiana Landowners Assn.

Ralph Pausina, representing the Louisiana Oyster Dealers & Growers Assn.

Mike Voisin, representing the Louisiana Oyster Task Force

DNR staff present:

Jack C. Caldwell, Secretary

Steve Mathies, Deputy Secretary

Celeste Bordelon, Assistant to the Secretary

John Waitz, Staff Attorney

Darryl Clark, DNR Coastal Restoration Division

Carolyn Edwards, Executive Assistant

Others present:

Dr. Earl Melancon, Nicholls State University

Having no opening remarks, Ms. Guillory asked if there were any corrections to the minutes of the November 5, 1997 meeting. There being none, Mr. Voisin moved for acceptance. Motion seconded by Mr. Boydston.

Dr. Earl Melancon of Nicholls State University was introduced and gave an in-depth presentation, using slides and overhead projection pictures, on the oyster fishery, the biology and ecology of the oyster, and how to assess a lease.

Regarding the oyster, Dr. Melancon said that on a private lease oysters have to be 2 1/2" and longer to be considered commercial size, but they can harvest any size oyster. To be harvested legally from the public grounds, they have to be 3" (75 mm) if they're going into a sack for direct sale. A Louisiana sack of oysters is 1 1/2 U.S. bushels. He said that an oyster will set on any hard substrate in an otherwise favorable environment. What the oyster sets on is called cultch. To grow a seed oyster (an oyster from 1" to 3" in length) from spat (anything less than an inch in length measured from the shell hinge to the most distant edge of the shell) to 1" takes about four months, and a 3" oyster can be grown from set to a commercial size in 12 to 15 months. An oysterman will bed all sizes of oysters.

On the subject of the oyster fishery, Dr. Melancon said that there are two types of oyster fisheries in

Louisiana. In both, oysters are harvested for commercial sale, but in one oysters can be bedded, moving them from one location to another for faster growth or fattening, or have a natural fishery where you let Mother Nature take care of propagation and resupplying the reef and it is harvested. The reef, however, still has to be worked.

Regarding assessing oyster leases, Dr Melancon said that each biologist has his own idiosyncracies, but the first thing that has to be done is to assess the bottom. It has to be conducive to the growth of oysters. This is done by poling and recording the findings. Depth profiling is also done. Reef and shell are the best habitats. The biologist must also get a feel for the population structure - the size of the oysters on the lease, and mortality. If mortality is over ten percent, something is wrong. In judging how many oysters constitute a sack, Dr. Melancon said he uses the figure that Wildlife and Fisheries has used for the last 30 years. If the oysters are larger than 3", 180 oysters make a sack. If the oysters are smaller than 3", 360 oysters make a sack.

Since the meeting was running long, Chairman Guillory asked if the Discussion of the Liability Issue and the Discussion of the Preliminary Request for Arbitration Form could be deferred until the next meeting. Everyone agreed.

On the subject of new business, Mr. Briggs asked if there was anything pending. Mr. Waitz said there was a claim Apache Oil Company tried to put before the Board, but the oil activity had already been done, so he and the Secretary decided that since Apache had already gone out and done the work without the survey, the Board couldn't hear it. Apache is going to try to get the court in Lafourche to remand it back to the Board. Without that kind of order, however, the Board is not going to hear the case.

Chairman Guillory announced that names of certified biologists for the rotation schedule were drawn in her presence and in the presence of Angela Wilkinson, DNR Personnel Director, by Carolyn Edwards. The list will be kept secured and confidential.

Mr. Voisin asked that the next meeting and subsequent meetings be held on the third Wednesday of each month because of a conflict he would have in the future with meetings being held on the first Wednesday of each month. It was agreed that meetings would be held on the third Wednesday until it was decided to change them. Chairman Guillory announced that the next meeting would be on Wednesday, January 21, 1997 at 1:30 p.m. in the same location and that meetings would be limited to two hours in length.

Dr. Mathies asked if everyone had had a chance to review the proposed I.D. cards and certificates to be given to the certified biologists. Mr. Voisin moved that the Board accept the recommendations of staff in terms of the certificate and card. Seconded by Mr. Boydston. Motion passed. Mr. Boydston asked that an expiration date be put on the card. Dr. Mathies suggested that the year be shown and the cards could be re-issued each year. Everyone agreed.

Mr. Voisin asked if any oil and gas operators had requested the list of three biologists. Dr. Mathies said, "no." Mr. Voisin asked if the Board should make the list available. Dr. Mathies said, "no," it will not be available to people until the Board asks for the three names because the list is to be kept

confidential.

Mr. Boydston said he thought either a letter or language was to be added to the application to notify the applicants that if they chose to select one of the biologists in the list of three in their initial survey, that that initial survey would qualify as the initial survey under the Oyster Lease Damage Evaluation Board process.

Mr. Voisin said the Board should request the Department to include as an option for the oil and gas operator, or whomever, in an oyster production area, that they can use the list of certified biologists developed by the Board and that that survey can be used as the initial survey should the issue come before the Board.

Mr. Boydston added that this would save the industry the cost of an extra survey and it could be used as a backup should a dispute arise.

Dr. Mathies said that if this process were used, the list of three would be made available to the oil and gas company, they would chose one and the other two would go back into the rotation.

Dr. Melancon asked what would be expected of the biologists. Mr. Voisin answered that they would do what they normally do in an initial survey, but based on what the Board wants to see in an initial survey.

Ms. Guillory asked if there was any more new business.

Mr. Voisin said he had one item; it was with great sadness he had heard that Dr. Mathies would be leaving the Department of Natural Resources. Dr. Mathies explained that he would be returning to the Corps of Engineers after the Christmas holidays as Senior Project Manager for CWPPRA projects. He expressed his sadness in leaving the Department and those outside of the Department with whom he had worked, but said there are many things he can do at the Corps from the federal prospective to move coastal restoration projects forward.

Mr. Voisin thanked Dr. Mathies for his efforts on behalf of the Oyster Lease Damage Evaluation Board in working through the legislative process and the initial rule-making process. He said the Oyster Dealers and Growers Association had written a letter to the Governor asking him to appoint someone like Dr. Mathies to the Deputy Secretary position because they had built a trust, as an industry, in the process where there was no trust before. They had felt that DNR was an enemy, generally, and that Dr. Mathies and Secretary Caldwell had helped the oyster dealers and growers to understand coastal restoration and oil and gas issues.

There being no further business, Chairman Guillory asked for a motion to adjourn. Mr. Briggs so moved. The motion was seconded by Mr. Boydston. Meeting adjourned.