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

MEETING MINUTES

FEBRUARY 1, 2010 – 9 A.M.

2ND FLOOR CONFERENCE ROOM

LDWF OFFICE IN THE UNO ADVANCED TECHNOLOGY BUILDING

2021 LAKESHORE DRIVE, NEW ORLEANS, LA 70122

Board Members Present:

1. Jakov Jurisic, Chairman
2. Shane Bagala, Vice-Chairman
3. Wilbert Collins
4. Dan Coulon
5. Byron Encalade
6. Rodney Fox

Board members absent:

1. Buddy Daisy
2. Peter Vujnovich, Jr.
3. Brad Robin

Meeting called into order by Chairman Jurisic at 09:20am

AGENDA

1. Approval of Minutes from Meeting of December 7, 2009

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

1. Hearing of Previously Deferred Appeals
   1. Edward Borne (not attending)

* Appellant requested to be removed by writing his request on the meeting notice letter for the December 7, 2009 meeting, which he returned to Louisiana Department of Wildlife and Fisheries (LDWF).
* Wilbert Collins – Motion to Remove Appeal
  + Shane Bagala – Seconded
  + MOTION CARRIED (unanimous)
  1. Hiep An Cao (not attending)
* No update in status since last meeting.
* Unable to contact appellant other than LDWF receives return receipts for meeting notification letters.
* The Board has deferred this case four times previously and felt the failure of the appellant to attend the any of the previous four meetings in which his case was reviewed by the board showed a lack of interest on his part in obtaining a permit.
* Shane Bagala – Motion to Deny Permit
  + Byron Encalade – Seconded
  + MOTION CARRIED (unanimous)
  1. Charles McKay (not attending)
* Indicated to LDWF staff that he was interested in attending the previous meeting (he did not), but there has been no communication with appellant since previous to the last [December 7, 2009] meeting.
* Claimed vessel was damaged by fire then sunk by Hurricane Katrina
* Did not hold the required licenses during the qualifying period.
* No trip ticket recorded oyster landings during qualifying period.
* Rodney Fox – Motion to Defer Appeal and have LDWF send a letter to McKay informing him that if he does not appear at the next board meeting it will be assumed that he is not interested and will be denied a permit if he fails to appear.
  + Dan Coulon – Seconded
  + MOTION CARRIED (unanimous)

Patrick Banks, LDWF Biologist Program Manager, explained to the board that appellants are notified of upcoming board meetings by letter which includes a summary of what information LDWF has concerning their appeal and what information may be lacking.

* 1. Janice Moree (present)
* Claimed previous owner of vessel had a “permit.”
* Department could not show vessel ever had a seed ground permit issued to it.
* Department belief is appellant possibly confused vessel license with seed ground permit.
* Vessel did not have trip ticket recorded oyster landings [in the state of Louisiana] during the qualifying period.
* Neither Moree nor Warren Thibodeaux, the former vessel owner, had trip ticket recorded oyster landings during qualifying period.
* Mr. Moree had not previously worked on an oyster vessel as a deckhand.
* Moree has owned vessels prior to this vessel, but none were used to fish oysters.
* The vessel will be used for trawling and oyster.
* Investigating Thibodeuax’s trip ticket history would not benefit Moree since Thibodeuax no longer owns the vessel and the deadline to apply for a permit has past.
  + Moree said Thibodeuax told him that he had fished oysters with the vessel in the past, but Moree did not know when or to whom he sold to.
* One method of obtaining a permit for Moree is to purchase a vessel that already had a permit.
* Jurisic offered to defer appeal until the next meeting to give Moree time to find anything that might help his case.
* Vessel unable to work the one lease Moree has permission to fish because lease is located in shallow water and the vessel drafts 5.5 feet.
* Dan Coulon – Motion to Defer
  + Wilbert Collins – Seconded
  + MOTION CARRIED (unanimous)

1. Hearing of New Appeals
2. Nuraud Thomas (not attending)

* Trying for second permit for a second vessel.
  + First vessel qualified for a permit on its own.
* Provided a statement under Eligibility section, but did not explain why he believes the Department incorrectly determined his eligibility.
* It was suggested to have the Department send a letter to Thomas asking for more information from him to further clarify his case.
* Rodney Fox – Motion to Defer Appeal and send a letter to Thomas informing him that based on the information he provided he does not qualify for a permit and that unless he appears at the next meeting and provides support documentation he would be denied a permit.
  + Byron Encalade – Seconded
    - Motion clarified by Fred Whitrock, LDWF Legal Counsel
  + MOTION CARRIED (unanimous)

Paul McIntyre was the only appellant left in attendance. LDWF staff made the board aware of that and suggested a motion be made that would move McIntyre’s case up in order to accommodate him.

* Dan Coulon – Motion to Deviate from Agenda
  + Wilbert Collins – Seconded
  + MOTION CARRIED (unanimous)

1. Paul J. McIntyre (attending)

* Trying for second permit for a second vessel.
  + Obtained first permit for the first vessel through appeals process.
* Claiming hardship.
* McIntyre applied for and was denied permits for two vessels and thought he was appealing for both vessels on his first appeal form, however only one vessel was listed on the form LDWF received. The board recommended a permit for the one vessel and McIntyre left the meeting believing both vessels had been recommended for permits. He became aware that only one vessel had been approved for a permit when he came to LDWF to get permits.
* McIntyre then amended his appeal to include the second vessel.
* Held all necessary licenses for qualifying period.
* Provided affidavits from two fishermen stating they observed him fishing the public grounds during two of the qualifying years.
* Rodney Fox – Motion to Recommend Permit Issuance since a clerical error prevented McIntyre from obtaining a second permit and there was no attempt to deceive by appellant and no intent to prevent him from getting the second permit by the Department and that he satisfied criteria.
  + Dan Coulon – Seconded
  + MOTION CARRIED (unanimous)

1. Andrew C. Livings (not attending)

* Held none of the required licenses during the qualifying period.
* Dan Coulon – Motion to Defer and have LDWF send a letter to appellant telling him the board does not find that he qualifies for a permit with the current information and the board needs him to appear at the next meeting to provide more information.
  + Letter like Thomas’ letter.
  + Wilbert Collins – Seconded
  + MOTION CARRIED (unanimous)

1. John Livings (not attending)

* Appealing for two vessels.
* Claiming under Eligibility.
  + Asserts that the dealer he sold to, Joe Jenkins (Crystal Seas Seafood), lost trip tickets for 2004, 2005 landings due to Hurricane Katrina.
  + LDWF found that Jenkins filed trip tickets electronically in those years and therefore LDWF would have a copy of the tickets even if Jenkins lost his records.
  + LDWF attempting to gain access to the signature logs for Jenkins for 2004, 2005 electronic trip tickets. Signature logs are signed by the captain when the dealer utilizes electronic trip ticket submission. Staff will be looking for Livings’ signature.
* The possibility of having Livings attain an affidavit from Jenkins in which Jenkins attests to the fact that he purchased oysters from Livings on the public grounds was raised.
* Dan Coulon – Motion to Defer and have LDWF send a letter to appellant telling him the board does not find that he qualifies for a permit with the current information and the board needs him to appear at the next meeting to provide more information.
  + Letter like Thomas’ and Andrew Livings’
  + Shane Bagala – Seconded
  + MOTION CARRIED (unanimous)

1. Donald F. Joost (not attending)

* Requested to be deferred.
* Dan Coulon – Motion to Defer
  + Wilbert Collins – Seconded
  + MOTION CARRIED (unanimous)

1. Tonci Gabre (not attending)

* Unclear as to what type of appeal he is lodging.
* Held required licenses in 2007 and 2008.
  + Licensure relevant only if appealing under a hardship.
* Dan Coulon – Motion to Defer and send the same letter that will be sent to other absent appellants.
  + Shane Bagala – Seconded
  + MOTION CARRIED (unanimous)

1. Set next meeting date

* Dan Coulon – Motion to set next meeting date for 9:30am in conjunction with next Oyster Task Force (OTF) meeting\*
  + Shane Bagala – Seconded
  + MOTION CARRIED (unanimous)

1. Adjournment

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

Meeting adjourned at 11:15am

Duration of Meeting: 1hr. 55min.

Minutes submitted by Ty Lindsey, LDWF Biologist

\*The OTF met later the same day as scheduled and set Monday, March 1, 2010 as their next meeting date. Therefore, the next Public Oyster Seed Ground Vessel Permit Appeals Board meeting will be at 9:30am on Monday, March 1, 2010 at the LDWF offices on the UNO campus.