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

MEETING MINUTES

MARCH 1, 2010 – 9:30 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. Wilbert Collins
3. Dan Coulon
4. Byron Encalade
5. Rodney Fox
6. Brad Robin
7. Peter Vujnovich, Jr.

Board members absent:

1. Shane Bagala
2. Buddy Daisy

Meeting called into order by Chairman Jurisic at 9:32am.

AGENDA

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

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

1. Hearing of Previously Deferred Appeals
   1. Charles McKay (not attending)

* Notice of Board meeting notice letter returned to Department as undeliverable.
* Indicated to LDWF staff through phone conversation on February 25, 2010 that he would attend today’s meeting.
* Dan Coulon – Motion to Deny
  + No second (motion fails)
* Peter Vujnovich, Jr. asked about possibility of making the case inactive until appellant takes action.
  + Jakov Jurisic did not think board could do that.
  + Patrick Banks, LDWF Biologist Program Manager, believes Fred [Whitrock], LDWF Legal Counsel, should answer that question, but further believes the board’s option for keeping case alive is to defer.
* John Roussel, LDWF Deputy Assistant Secretary, asked if McKay was one of the appellants that were informed by letter that failure to appear at the next meeting would result in possible denial of a permit. Banks said he was, but that letter was returned to the Department as undeliverable. Ty Lindsey, LDWF Biologist, stated McKay was informed by phone that failure to appear at the next meeting may result in denial of a permit.
* Rodney Fox – Motion to send a final notice stating failure to attend next meeting will result in denial of permit.
  + Peter Vujnovich, Jr. – Seconded
* Jurisic asked LDWF staff to contact appellant by phone and stress to him the need to appear at the next meeting.
* Vujnovich and Roussel suggest moving the case to the end of the list of deferred appeals in case McKay arrives late to the meeting.
* Fox withdraws motion until case is brought up later.
* Roussel and Banks do not believe board action is necessary to accommodate the change in case order.
  1. Janice Moree (not attending)
* Board had asked Moree at the last meeting to try to find anything that might support her case and present the supporting documentation to LDWF and/or the board.
* Appellant asked to be deferred through phone conversation with LDWF on February 22, 2010 to have more time to locate additional supporting documentation.
* Dan Coulon – Motion to Defer
  + Byron Encalade – Seconded
  + MOTION CARRIED (unanimous)
  1. Nuraud Thomas (not attending)
* Attempting to get a second permit.
* Thomas does not have necessary trip ticket recorded oyster landings.
* Requested to be deferred through phone conversation with LDWF on February 24, 2010.
* Wilbert Collins – Motion to Defer
  + Brad Robin – Seconded
  + MOTION CARRIED (unanimous)
  1. Andrew Livings (not attending)
* LDWF verified that he received Board meeting notice letter through Post Office Return Receipt.
* Department left message by phone on February 25, 2010.
* No new information since last meeting.
* Brad Robin – Motion to Defer
  + Wilbert Collins – Seconded
  + Dan Coulon would like motion to read that a letter be sent saying board needs more information and his [Livings] appearance.
    - [After a later discussion, Coulon added wording to say that without further information the board will be unable to recommend a permit be issued to him].
  + Robin accepts Coulon’s amendment.
  + MOTION CARRIED (unanimous)
* Byron Encalade asked if Livings owned the boat.
  + LDWF said unable to verify ownership of vessel because it is Mississippi registered and Livings has held no licenses in the state of Louisiana.

Roussel suggested that LDWF include copies of all letters sent to appellants in the board members’ packets for subsequent meetings.

* 1. John Livings (not attending)
     + Appealing for two vessels.
     + LDWF verified he received Board meeting notice letter through Post Office Return Receipt.
     + Livings checked trip ticket boxes on appeal form, but LDWF records do not show trip tickets for oyster landings for Livings during the qualifying period.
     + LDWF background research prior to Board meeting unable to identify a signature on dealer electronic trip ticket signature logs that might belong to Livings for the period of time Livings claimed to have sold oysters to a dealer.
     + Dan Coulon – Motion to defer with letter stating that without additional information or Living’s appearance before the Board, the Board will be unable to recommend a permit be issued to him.
  + Wilbert Collins – Seconded
  + MOTION CARRIED (unanimous)
  1. Donald Joost (attending)
* Provided copies of three affidavits to LDWF within the week prior to today’s meeting [one from himself, one from dealer to which he claims to have sold oysters to (Bayou Caddy), and one from the Operations Manager for Bayou Caddy who assisted in off-loading those oysters].
* LDWF background research prior to Board meeting unable to identify a signature on the dealer electronic trip ticket signature logs that might belong to Joost for the period of time Joost claimed to have sold oysters to that dealer.
* Held Commercial Fisherman’s license in 2004, 2005, and 2006.
  + Held Oyster Harvester license in 2005 only, which he obtained on February 3, 2005.
  + Banks explains to the Board that Joost is claiming the Department incorrectly determined his eligibility and that Joost’s licensure is not relevant under eligibility appeals.
* Joost states that he made two trips in 2005.
  + Later states that he made the trips in February 2005.
  + He was paid for those trips “about that time” [referring to February 2005].
  + States that he held a harvester license in one year only.
  + States he was boarded by LDWF Enforcement agents during one of his trips, but agents went on their way after finding everything in order (no citations were issued).
* Roussel suggests possibility of dealer (Bayou Caddy) completing a trip ticket for Joost’s trip if there were a receipt or something to substantiate Joost’s claim of 2005 oyster harvest.
  + Jurisic asked Joost if he could produce a bank statement, canceled check or something similar that shows Joost was paid for the oysters.
    - Joost said he would do whatever he needed to do.
  + Fox suggested Joost see if Bayou Caddy can provide a copy of a canceled check showing they paid Joost.
* Jurisic asked Joost if he sold the oysters as an individual or as a corporation.
  + Joost said he sold as an individual.
* Jurisic asked Joost if he understood what the Board was asking for.
  + Joost said he understands the Board wants him to provide a canceled check/bank statement.
* Dan Coulon – Motion to Defer pending additional information
  + Brad Robin – Seconded
    - Roussel stated to Joost that it would be ideal for Bayou Caddy to submit a late trip ticket, assuming a canceled check can be found, which may help to clear up the LDWF trip-ticket data base. There may be a chance of liability on Bayou Caddy for not submitting a ticket at the time of the transaction like they are supposed to, but he cannot speak for Enforcement.
  + MOTION CARRIED (unanimous)
* Jurisic asked Joost if he would be at the next meeting.
  + Joost said he would try. If not, he will be at the next one.
  1. Tonci Gabre (attending)
     + Appeal application is unclear if he is appealing under hardship or eligibility.
     + Vessel for which he applied for a permit does not have trip ticket recorded landings of oysters during the qualifying period.
     + Held all required licenses in 2007 and 2008.
     + Provided a statement on separate piece of paper in which he describes his situation.
     + Gabre said when he bought the boat it was in floating condition, but not in “working” condition.
* Working offshore prevented him from doing work on the boat.
* Gabre said he worked on an oyster boat as a deckhand with a friend of his in 2008.
* He stated he worked as a captain on an oyster boat in 2005 prior to [Hurricane] Katrina in Texas.
* Claims to have worked on oyster boat(s) in Louisiana prior to 2004.
* Encalade asked if the boat had been damaged by [Hurricane] Katrina.
  + - Gabre said it was not.
    - He said that if he does not get a permit then the boat is a “dead” investment for him.
* Robin asked Gabre if boat was used to fish oysters before he bought it.
  + - Gabre said it was not.
* Collins told Gabre that if he does not get a permit he could still fish private leases.
  + - Gabre said his boats draws 4 feet and is unable to get to the good leases. Leases in deeper water are reserved for people who fish oysters full-time.
* Jurisic asked Gabre if he was aware that he could fish Cameron [Parish] in Calcasieu Lake.
  + - Gabre said he has never been there.
* Jurisic asked LDWF about possibility of appellant qualifying under the 50% complete option.
  + - Banks explained that the rule says the builder of the boat would have to provide a written statement saying the boat was at least 50% complete by May 1, 2009 or if the appellant built the boat himself, he would have to have a licensed marine surveyor make such a statement. Banks later explained that the Board is not bound to require a statement from a marine surveyor or the boat manufacturer, but since the Department issues the permit they would require such a statement and possibly the Secretary would want to see such a statement.
    - Banks stated that in one previous case the Board recommended a permit be issued for a boat that was under major reconstruction after being nearly destroyed by Hurricane Katrina. That recommendation was ultimately upheld by the Secretary. Therefore, there is a chance, albeit a small one, for the appellant to obtain a permit in a similar manner.
    - Jurisic asked Gabre if he could provide canceled checks, receipts, or anything else that might show work was done to the boat.
  + Gabre said he was not affected by Hurricane Katrina and could do so.
* Jurisic suggests deferring the case until the next meeting and have Gabre bring anything he can think of that might support his case.
* Banks explains that the 50% complete option is not part of a hardship appeal and then read the 50% complete rule aloud for the Board. He emphasizes that the rule reads that the boat cannot have been previously registered or issued a Coast Guard documentation number. It appears that the boat in question may have previously been registered. Banks then made clear that a previous case under the same circumstances was ultimately successful in obtaining a permit.
* Jurisic tells Gabre that he would like to see the bill of sale for the boat.
* Encalade tells Gabre to get receipts from the machine shop he hired to make the oyster harvesting equipment for the boat.
* Wilbert Collins – Motion to Defer
  + - Brad Robin – Seconded
    - MOTION CARRIED (unanimous)

1. Hearing of New Appeals
2. Lawrence Peterson (not attending)

* Wilbert Collins – Motion to Defer
  + Byron Encalade – 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\*
  + Wilbert Collins – Seconded
  + MOTION CARRIED (unanimous)

1. Adjournment

* Dan Coulon – Motion to Adjourn
  + Brad Robin – Seconded
  + MOTION CARRIED (unanimous)

Meeting adjourned at 11:33am

Duration of Meeting: 2hr. 1min.

Minutes submitted by Ty Lindsey, LDWF Biologist

\*The OTF met later the same day as scheduled and set Tuesday, April 6, 2010 as their next meeting date to be held in the Louisiana Room at the LDWF offices in Baton Rouge. Therefore, the next Public Oyster Seed Ground Vessel Permit Appeals Board meeting will be at 9:30am on Tuesday, April 6, 2010 at the LDWF offices in Baton Rouge.