

PUBLIC OYSTER SEED GROUND VESSEL PERMIT APPEALS BOARD

MINUTES

December 4, 2012

JAKOV JURISIC

CHAIRMAN

NEW ORLEANS, LOUISIANA

The following constitute minutes of the Public Oyster Seed Ground Vessel Permit Appeals
Board Meeting

and are not a verbatim transcript of the proceedings.

Tapes of the meetings are kept at the
Louisiana Department of Wildlife and Fisheries
2000 Quail Drive

Baton Rouge, Louisiana 70808.

For more information, call (225) 765-2387.

December 4, 2012 – 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. Shane Bagala, Vice-Chairman
3. Wilbert Collins
4. Dan Coulon
5. Byron Encalade
6. Brad Robin

Board Members Absent:

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

Meeting called to order by Chairman Jurisic at approximately 9:35am.

AGENDA

- I. Approval of Minutes from Meeting of September 25, 2012
 - Encalade – Motion to Approve
 - Coulon – Seconded
 - MOTION CARRIED (unanimous)

- II. Hearing of New Permit Appeals
 1. Curtis J. Alfonso (attending)
 - Ty Lindsey, Louisiana Department of Wildlife and Fisheries (LDWF) Biologist 3, stated that Alfonso’s appeal application indicated an appeal under the hardship provision for a permit on a non-qualifying vessel (LA4805CA), which Alfonso claimed would have meet the qualifying requirement had it not been destroyed by Hurricane Katrina in 2005.
 - Alfonso did not satisfy the trip ticket requirement of having legally harvested oysters from the public oyster seed grounds in two years between 2004 and 2009. He had trip ticket recorded landings in only one of those years.
 - He was not able to satisfy the licensing requirement of possessing both a Commercial Fishermen’s license and an Oyster Harvester license in two years between 2004 and 2009. He had both licenses in 2009 only.
 - Alfonso provided the Department with two statements immediately prior to the meeting, only one of which was notarized as required by administrative rule. Neither statement mentioned observing Alfonso oyster fishing the public oyster grounds specifically, which is also a

requirement of affidavits by administrative rule. [Affidavits may be substituted as proof of fishing activity for Department trip tickets].

- Jurisic asked if Alfonso owned the vessel during Hurricane Katrina.
 - Lindsey stated Alfonso took possession of the vessel in 2012.
- Jurisic asked if the vessel had any trip ticket recorded landings prior to Hurricane Katrina.
 - Lindsey said if it had landings in 2004 through August 2005 (the month Hurricane Katrina struck Louisiana), it would have qualified for a permit.
 - Lindsey further stated that once a person submits an appeal, the focus shifts from the vessel's qualifications to the person's qualifications as per administrative rule.
- Jurisic asked Alfonso for his input.
 - Alfonso said he already had a permit for one vessel and is trying to get a permit on this vessel
- Coulon asked if Alfonso could apply for a new permit.
 - Patrick Banks, LDWF Biologist DCL-B, explained that although the application period for new permits reopened (August 2012 – December 2012), the qualification requirements remained unchanged.
 - Banks told the Board that Alfonso could move his existing permit from one boat to another.
- Jurisic asked how Alfonso obtained the one permit he has now.
 - Lindsey said the vessel Alfonso obtained a permit for is a qualifying vessel.
- Robin asked if 2013 was the year the permit law would expire.
 - Lindsey believed the law would expire in November 2013 [later confirmed].
 - Jurisic cautioned that the law could possibly be renewed by the legislature.
- Robin – Motion to deny permit due to a lack of sufficient evidence to recommend issuance of a permit.
 - Encalade – Seconded
 - MOTION CARRIED (unanimous)

2. German and Dodie Garcia (attending)

- Lindsey stated the Garcia's are appealing denial of a permit on a non-qualifying vessel [LA2365AD], which was used primarily for shrimp fishing prior to them purchasing the vessel in December 2011.
- Appeal application does not indicate which option the Garcia's filed (hardship, etc.).
- If they had appealed under a hardship, they would meet the trip ticket and licensing requirements.
- In response to a question from Encalade, Mrs. Garcia said they currently hold two permits on two boats. She claimed the boats belong to her brother-in-law, but they are registered under her name with the Department.

- Encalade – Motion to deny permit due to a lack of sufficient evidence to recommend issuance of a permit.
 - Robin – Seconded
 - MOTION CARRIED (unanimous)

3. Paul McIntyre (attending)

- Lindsey explained that McIntyre was appealing under a hardship for a non-qualifying vessel [LA4366FX]. McIntyre claims vessel was under construction when it was damaged by Hurricane Katrina.
 - McIntyre does not have the trip ticket history to satisfy that requirement, but from a previous appeal he has two affidavits stating that he was observed fishing the public grounds during at least two of the qualifying years.
 - He satisfies the licensing requirement.
- Jurisic asked who was in possession of the vessel during Hurricane Katrina.
 - McIntyre said the builder, Newton, was.
 - Builder resumed work on the vessel in 2011.
 - Vessel was issued a Hull Identification Number (HIN) prior to being damaged.
 - He has a receipt from Newton showing down payment.
- Robin asked if McIntyre could qualify under the 50% complete option.
 - Banks said he possibly could with the required documentation.
- Robin expressed his interest in having McIntyre provide the Department with the necessary documentation to prove the vessel was at least 50% complete as per rule and obtain a permit through that avenue.
- McIntyre asked what the qualifying time period was.
 - Garrett articulated that a vessel must be 50% complete by May 1, 2009.
 - Banks told McIntyre that if he can produce a notarized statement from the builder that the vessel was at least 50% complete by May 1, 2009, the Department may be able to issue him a permit.
 - Garrett clarified the two items the Department would except as proof of a vessel meeting the 50% complete requirements are a notarized statement from a certified marine surveyor stating the vessel was at least 50% complete by May 1, 2009 or a notarized statement from the boat builder stating the same.
- Robin – Motion to defer McIntyre’s appeal while McIntyre pursues a permit under the 50% complete option.
 - Coulon – Seconded
 - Garrett asked Banks what the procedure for McIntyre is for obtaining a permit without having to come back before the Board.
 - Banks said McIntyre should reapply, but to allow Lindsey and/or himself review the affidavit McIntyre acquires prior to reapplying to insure the affidavit meets all requirements.
 - MOTION CARRIED (unanimous)

4. Mark Tayamen (attending)

- Lindsey explained that Tayamen filed a hardship appeal for a non-qualifying vessel [LA4301CA] and presented the facts of the case to the Board.
 - Tayamen listed multiple hardships on his appeal form including medical, vessel destroyed, and divorce.
 - Tayamen further stated that he stopped fishing oysters in 1997 due to medical issues.
 - He did not meet the trip ticket requirements.
 - He did not meet the licensing requirements. Did not hold a Commercial Fishermen's license until 2007. Did not hold an Oyster Harvester license during any of the qualifying years.
 - When asked by Jurisic about Tayamen having ever held an Oyster Harvester license, Lindsey stated that Department records show Tayamen did not hold such a license until 2010.
- In responding to questions from Coulon and Encalade, Tayamen stated that he served two stints in the U. S. Air Force and was last discharged in 1990.
- Garrett simplified the requirements Tayamen must meet, which are trip ticket history, license history, and an accepted hardship.
 - Further discussion with the Board indicated that Tayamen satisfied none of requirements and that Tayamen's service in the military was prior the allowable dates.
- Banks indicated that LDWF records show Tayamen holds a permit on another one of his boats.
 - Tayamen confirmed that he does hold a permit on a boat he just built.
 - The permit was obtained by acquiring a qualifying boat along with its permit from his son-in-law and transferring that permit to the newly constructed boat. [The qualifying boat was subsequently transferred back to the son-in-law].
- Jurisic asked if it is possible for Tayamen to obtain another permit on the qualifying boat he had transferred from his son-in-law.
 - Banks said the Department would have to review that option.
 - Robin suggested the Board defer Tayamen's case until the Department renders a decision on whether or not such a tactic will be allowed.
- Jurisic asked Tayamen if he could provide the Board with a copy of his discharge papers from the Air Force.
 - Tayamen said he could.
- Bagala – Motion to defer Tayamen's appeal [pending the Department's decision on allowing the transfer of a permit and issuing a new permit on the original qualifying vessel].
 - Robin – Seconded
 - MOTION CARRIED (unanimous)

- III. Set next meeting date
 - Coulon – Motion to set next meeting date in conjunction with the next OTF meeting if there are appeals cases to be heard.*
 - Bagala – Seconded
 - MOTION CARRIED (unanimous)

- IV. Receive Public Comments
 - No comments received.

- V. Adjournment
 - Robin – Motion to Adjourn
 - Collins – Seconded
 - MOTION CARRIED (unanimous)

Meeting adjourned at 10:52am; Duration of Meeting: approximately 1 hr. 17 min.

Minutes submitted by Ty Lindsey, LDWF Biologist

**The OTF met later the same day as scheduled and set Wednesday, February 6, 2013 as their next meeting date. Therefore, the next Public Oyster Seed Ground Vessel Permit Appeals Board meeting is scheduled for 10:00am on Wednesday, February 6, 2013 at the LDWF offices on the UNO campus.*