

MINUTES

PUBLIC RECREATION ACCESS TASK FORCE

JANUARY 21, 2020

A public meeting of the Public Recreation Access Task Force was held on Tuesday, January 21, 2020 beginning at 1:30 p.m. in House Committee Room 5, Ground Floor, Louisiana Capitol, Baton Rouge, Louisiana.

I. CALL TO ORDER

Mr. Blake Canfield called the meeting to order at 1:32 p.m.

II. ROLL CALL

Mr. Canfield then called the roll for purposes of establishing a quorum. The following members of the task force were recorded as present:

Rep. Beryl Amedee
Mr. Mike Bengé
Mr. Blake Canfield
Mr. Richard Fisher (*alternate for Daryl Carpenter*)
Mr. David Cresson
Mr. Taylor Darden
Ms. Cynthia Duet
Mr. Cole Garrett
Mr. Cheston Hill
Mr. Joseph LeBlanc
Mr. John Lovett
Mr. Charlie Marshall
Mr. David Peterson
Mr. Lucas Ragusa
Mr. Sean Robbins
Mr. Jay Schexnayder
Mr. Jeff Schneider
Mr. Ryan Seidemann (*alternate for Harry Vorhoff*)
Mr. Tony Simmons
Mr. Jim Wilkins (*alternate for Rex Caffey*)

The following members of the task force were reported as absent:

Sen. Bret Allain
Sen. Norby Chabert
Rep. Jack McFarland

Mr. Canfield announced that twenty (20) members of the task force were present and that a quorum was established.

III. APPROVAL OF MINUTES FOR DECEMBER 19, 2019 SUBCOMMITTEE MEETING AND JANUARY 7, 2020 TASK FORCE MEETING

A motion by **Mr. Tony Simmons** to approve the minutes for the December 19, 2019 Subcommittee meeting was approved unanimously. **Mr. Canfield** stated that he was unable to complete drafting of the January 7, 2020 task force meeting prior to today's meeting.

IV. ITEMS FOR CONSIDERATION

a. Report of John Lovett – Reporter of Drafting Subcommittee, review and discussion of most recent draft of the legislative report - **Mr. Lovett** stated that his goal in any of the changes made since the last task force meeting was to try to make sure that every proposal and argument was made as clear as possible. **Mr. Canfield** stated that he would go through the report section by section and asked the members to let him know of any changes they thought were necessary. There were no changes until pg. 4 section 2 on the donation and severance proposal:

A. **Mr. Lovett** stated he would like to insert three sentences, on the final draft pg. 40, take the two last sentences of the introduction paragraph and insert those into the executive summary. “Under this proposal a landowner would donate surface ownership of a particular tract of land to the state and would reserve its mineral rights in perpetuity and along with it some assurance of reasonable access for mineral exploration and production. The landowner, however, would also enter into a long term agreement with the state to share any mineral revenue that is ultimately derived from mineral production on the land on some proportional basis.” Mr. Lovett stated he would take another sentence from the next paragraph on page 40 where it says, “this kind of arrangement would not only resolve disputes about submerged land that is presently dual claimed, but could also apply to lands that are not currently dual claimed but could become so in the future” and he further stated that he would add the language “notwithstanding any changes to the physical characteristics of the donated land.” Mr. Lovett stated he would like to insert those sentences under the donation and severance pathway on page 4. Also, Mr. Lovett would add a statement that “a constitutional amendment may be required to implement this proposal.” Mr. Lovett made a motion to add these lines

to the summary. **Mr. Canfield** asked if there were any objections to these changes and seeing none stated that the motion was adopted.

- B. **Representative Amedee** proposed that there be an amendment to the executive summary to add the missing “shared value” from the body of the report which was the first shared value, mentioned on page 4 section C, titled “preserve our coast and the natural environment.” There were no objections to this addition.
- C. No changes were mentioned until the section on the “expand recreational access” proposal, where **Mr. Darden** asked if the expand recreational access proposal is voluntary **Mr. Lovett** stated that his understanding of the proposal would be a change in state law that the Legislature would enact. It would therefore not be voluntary. **Mr. Darden** proposed that a reference be made that adopting or pursuing this path might create unconstitutional taking issues and that landowners might therefore oppose this proposal. There were no objections to adding this statement,
- D. No changes were proposed until the combination proposal recommendation by state agency representatives on pages 5-6. **Mr. Darden** stated he does not see reference to the transfer of existing surface contracts covering private property on this proposal. **Mr. Darden** stated he thinks proposal 7 would require a constitutional amendment. **Mr. Darden** suggests that those comments be included. **Mr. Lovett** stated that he will work with **Mr. Darden** on adding those statements. There were no objections to these changes
- E. **Mr. Canfield** stated that the next section is on pg. 6, titled the “no action alternative.” **Mr. Hill** stated that the no action alternative should be labeled #8, since it does not have a number. **Mr. Hill** stated that the Constitutional Amendment drafted for **Mr. Marshall’s** proposal and **Mr. Darden’s** proposal, that same amendment should be sufficient for the compromise proposal mentioned earlier. **Mr. Canfield** stated that stating a Constitutional amendment might be necessary should be sufficient. **Mr. Lovett** suggested that stating that it may be necessary to have a Constitutional amendment similar to, but perhaps modified. To take advantage of the one on Exhibit E, it is a model. **Representative Amedee** stated she does not have a problem numbering the “no action” alternative. **Mr. Canfield** stated that they can label the no action alternative as the number 8 alternative and change it accordingly throughout the report.
- F. There were no changes mentioned until, **Mr. Seidemann** stated that on page 7, James G. Wilcox needs to be changed to James G. Wilkins.
- G. There were no changes to the report until, page 27 where **Mr. Seidemann** stated that formatting needed to be checked as part of the page appeared to be justified.
- H. **Mr. Canfield** stated the next section is subsection 4 on page 40, the decoupling of land and minerals donation of surface and the perpetual severance of mineral

rights proposal. **Mr. Marshall** stated there needs to be a reference in the lead in paragraph of subsection 4 about the possible need of a Constitutional amendment.

- I. **Mr. Canfield** stated the next section is subsection 5, page 41. **Mr. Seidemann** stated that footnote 49 has the wrong font.
- J. **Mr. Canfield** stated next is subsection 7 wildlife sanctuaries wetlands conservation pg. 44. **Mr. Seidemann** stated at the end of the first paragraph there is no punctuation at the end. **Mr. Darden** asked is the wildlife sanctuaries wetlands conservation included in the executive summary. **Mr. Canfield** stated it was not included as a separate pathway, but it needs to be included with any pathway the Legislature decides to take.
- K. **Mr. Canfield** stated next for review is subsection 8, combination proposal recommendation by state agency representatives pg. 45. **Mr. Darden** asked if Mr. Lovett intends to put the constitutional issue in subsection 8 and the pathways. **Mr. Lovett** responded he thinks that is a good idea.
- L. There were no proposed changes until the donation and severance section on pg. 53. There **Mr. Lovett** proposed making the same insertion made in the executive summary here to clarify the content in the proposal by moving the three sentences approved for the executive summary
- M. **Mr. Marshall** stated that on pg. 52 in the canal section, the report states that the State as a last option could consider expropriating portions of canals that may be overly broad. Mr. Marshall stated he believes that statement should be softened. **Mr. Darden** stated he agrees with Mr. Marshall to soften it as well. **Mr. Lovett** stated he could add a footnote about the requirement of satisfying the public purpose. Mr. Darden stated it could include “might consider although there are possible constitutional implications associated with that.” Mr. Lovett stated “the state could consider as a last option expropriating those portions of canals that are essential for recreational access subject to satisfying all constitutional requirements for exportation. There were no objections to this addition.
- N. There were no changes brought up until pg. 52 on permanent boundary settlement where **Mr. Lovett** mentioned adding in the same sentences that he added for the donation and severance into the pathways. **Mr. Darden** asked Mr. Lovett, if that would be at the end of the first sentence of the first paragraph of that section. **Mr. Lovett** stated that for part two it would go in the middle of the first paragraph, after the first sentence is where we have to describe the essence of it. He stated he would move those three sentences. For this section we can add a very short reference to the possible need for a constitutional amendment. **Mr. Darden** stated for the donation and Severance a constitutional amendment would be required for the transfer of minerals. **Mr. Lovett** stated it will state that a constitutional amendment proposed in the context of proposal 1 is a model for any Constitutional Amendment that would be required for the other models/

proposals. No one objected to these changes on the donation and severance section.

- O. The next section commented on was on Pathway 4, expand recreational access create Scottish style expand responsible access of land subject to the ebb and flow of the tide on page 54, **Mr. Lovett** stated he needs to add a word to the first sentence so it would read, “the next pathway that decision-makers could follow to resolve the conflict between and it should be between recreational Sportsman *and* private landowners...” Mr. Lovett stated it does include the concern of landowners here about loss of the right to exclude. This is a short paragraph that can be used in the executive summary.
- P. The next section commented on was Pathway 7 on the Combination proposal recommendation by state agency representatives, pg. 56 to pg. 57, where **Mr. Lovett** stated that the last sentence of the second paragraph at the end, where it says “essentially excluding emergent lands from the entire process, transferring and relinquishing its claims to land covered by water within the compromise area,” that should be within the “SAIZ.” There were no objection to these changes
- Q. **Mr. Canfield** completed going through the report and asked the Task Force if there were any other changes. **Mr. Wilkins** stated that on page 30, under Section G Recommendations received by the task force, he proposes the second sentence state “among those options, the Sea Grant study participants suggested” instead of “Sea Grant proposed.” He clarified that Sea Grant was charged by the Legislature to facilitate a process and to provide a forum for the stakeholders’ ideas.” **Mr. Fisher** stated he would like the committee to think about and be deliberate about the numerical value associated with the no action alternative. Should we number it? He stated that he thinks the Task Force was put here to come up with a suite of solutions and although he fully acknowledge that the text underneath number eight does not speak very highly of the “no action” alternative, he was not sure if it sent the best message to put it on the same numerical footing as the other seven numbered pathways. **Mr. Canfield** asked for clarity, that Mr. Fisher’s concern was that the no action alternative being numbered amongst the eight options would send the message that we see it as a viable alternative? He further asked whether the idea is either to not number it at all or to offset it, to where it's clear that that's not equal with the other pathways. **Mr. Fisher** stated that yes that would be his preference. **Mr. Canfield** asked whether there is a way to separate it from the other pathways are options, especially in the executive summary and at the end to make it clear it is not part of any other proposals. **Mr. Hill** stated it could have its own title or make it “IV” or maybe in the executive summary make it the “IV”. **Mr. Lovett** stated in the report it could have a new letter equivalent to Pathways. In the current version it would be part “I”. **Representative Amedee** stated she supports Mr. Hill’s recommendation, but she suggests including no

action into the conclusion. **Mr. Lovett** stated he likes it not as a pathway, but as a chapter in the report. **Mr. Wilkins** stated he would like to see it under its own heading titled “Future with No Action.” **Mr. Seidemann** stated that in the last sentence in the conclusion where it is noted that the task force is offering seven distinct and potentially complementary pathways; the “no action” does not fit in that mold. **Mr. Lovett** stated if they take section “H” and renumber it with “no action”, we can keep the 7 pathways corrected in the conclusion. **Mr. Canfield** stated he does not think there needs to be a separate sentence to refer to the final no action section in the conclusion because it is addressed right before the conclusion.

b. public comments

Mr. Richard Cantrelle asked the Task Force what was the next step? **Mr. Canfield** stated that once the report is approved to be submitted to the Legislature, Mr. Lovett and Mr. Canfield will finalize the formatting and it will be forwarded electronically to the Legislature and anyone who requests a copy. Mr. Canfield stated he has approval to have a webpage on the DNR website to store the report and all the appendices. Mr. Canfield stated he plans to have a scanned copy in the original email as well as the webpage address. This will include the executive summary with all the changes.

c. Vote to approve submittal of report to Legislature pursuant to SCR No. 99 of 2018 Regular Legislative Session

Prior to taking the vote, **Mr. Robbins** stated that the Legislature should be cautious in pursuing any option that does not address access of canals, failing to address canals would likely be very unpopular in court of public opinion and be viewed as if nothing was accomplished.

A motion by **Rep. Amedee**, seconded by **Mr. Cresson**, to forward the report of the task force to the Legislature after allowing for the report to be finalized in accordance with the corrections mentioned at this meeting and allowing for the correction of typographic, grammatical, and formatting errors and to allow for pulling together all of the exhibits was approved by a vote of 19 yeas to 0 nays, with 1 abstention (Mr. Fisher).

V. CONSIDERATION OF ANY OTHER MATTERS THAT MAY COME BEFORE THE TASK FORCE

No other matters were brought before the task force for consideration.

VI. ADJOURNMENT

The meeting adjourned at 2:31 p.m.

*NOTE: These minutes were completed after the last meeting of the Public Recreation Access Task Force and were therefore not approved by the task force.