

MINUTES

PUBLIC RECREATION ACCESS TASK FORCE

February 19, 2019

A public meeting of the Public Recreation Access Task Force was held on Tuesday, February 19, 2019 beginning at 9:30 a.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 9:38 a.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:

Sen. Bret Allain

Rep. Beryl Amedee

Mr. Mike Benge

Mr. Rex Caffey

Mr. Blake Canfield

Mr. Daryl Carpenter

Sen. Norby Chabert

Mr. David Cresson

Mr. Taylor Darden

Ms. Cynthia Duet

Mr. Cole Garrett

Mr. Joseph LeBlanc

Mr. John Lovett (*left at 12:10 p.m.*)

Mr. Charlie Marshall

Rep. Jack McFarland (*arrived at 9:50 a.m.*)

Mr. David Peterson

Mr. Lucas Ragusa

Mr. Sean Robbins

Mr. Jonathan Robillard

Mr. Jay Schexnayder

Mr. Tony Simmons

Mr. Harry Vorhoff

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

Mr. Jeff Schneider

Mr. Canfield announced that twenty (22) members of the task force were present and that a quorum was established.

III. APPROVAL OF MINUTES

A motion by **Mr. Mike Benge** to approve the minutes for the October 29, 2018 task force meeting was approved unanimously.

IV. PRESENTATIONS AND DISCUSSION ITEMS

- a. Presentation by Gene Gilliland, Conservation Director of B.A.S.S., titled *Guaranteeing a Level Playing Field – the B.A.S.S. Perspective*. His presentation is attached as **Attachment A**.
 1. **Mr. Carpenter** asked several questions regarding which Louisiana cities are courting BASS tournaments. **Mr. Gilliland** responded that Morgan City has had tournaments before but is not currently bidding. It was well received and well attended but currently it's off the table. **Mr. Carpenter** noted that St. Mary has spent a great deal of money moving forward and also mentioned an incident in New Orleans where an angler was shot at. **Mr. Gilliland** confirmed that situation but was unaware of the details surrounding the incident. Additionally, **Mr. Carpenter** mentioned that from a public relations standpoint, a few years ago there was a tournament that broke records on amount/weight of fish brought in and following that there was a great deal of interest from bass anglers to come to Louisiana. **Mr. Gilliland** confirmed that there is a great deal of residual effect following tournaments, noting that people want to come where pros fish.
 2. **Mr. Benge** inquired whether tournaments are held on private lands to which **Mr. Gilliland** confirmed that they only take place on public lands. He further noted that the only place that closely resembles Louisiana in terms of restricted private waters is in SC where very small tracts were deeded to owners by the King of England. All other states are purely public waters and the only times they encounter off limits area is when there is a security issue. He also noted that in most other states man made water bodies can be restricted but natural waterways are open to the public. **Mr. Benge** inquired about an incident in New York where a Louisiana angler was disqualified for going into restricted waters, which unfortunately was a mistake. **Mr. Gilliland** confirmed that incident, noting that they are scheduled to return there in 2019, but will have all private waters posted and will provide maps depicting where anglers are able to go. There was additional discussion of the monetary aspect of hosting a tournament. **Mr. Gilliland** clarified that each host community is required to pay a host fee which ranges depending on the size of the event. Larger events yield a larger return. **Mr. Benge** then asked specifically, what kind of profit was made on the Master Series tournament held in New Orleans, to which **Mr. Gilliland** was unsure of the answer. **Mr. Gilliland** stated that no economic impact study done.

3. **Ms. Duet** inquired when the last Classic was held in Louisiana which was in either 2014 or 2015. Additionally, she asked about the severity of the problem in the form of citations and negative interactions amongst fisherman and how many citations were issued? **Mr. Gilliland** answered that none were issued.
4. **Mr. Garrett** asked that in 2018 when it was announced that no further events would take place in LA, was that statewide or regional? **Mr. Gilliland** stated that it was primarily just South LA. Historically they have had tournaments in Red River and other parts of North LA but haven't received any bids for future events there. **Mr. Garrett** also mentioned that South Carolina and New York are other states with similar experiences and asked how have they have handled these situations? **Mr. Gilliland** was not aware of anyone else with these problems, further stating that in other states navigable water is public water.
5. **Rep. Amedee** asked for statistics on how many years has the Elite Series been going on? **Mr. Gilliland** answered that all tournaments have been going on for almost 50 years. The very first was held in Arkansas. National and state affiliates put on tournaments every year.
6. **Mr. Darden** inquired as to how BASS determines whether a water body is private or public prior to an event? **Mr. Gilliland** answered that they contact state wildlife and fisheries agencies for guidance. In the case of Louisiana, the State Land Office refers to a GIS map on their website however that wasn't useful to anglers. There was then discussion of how large of an area is needed for tournaments and what effort, if any, is made to contact private land owners to inquire about use of private lands for a tournament. **Mr. Gilliland** stated that while they do provide maps of publicly accessible waters, they mostly rely on anglers to do their homework to find out where they can fish. They have not had issues with this in other states and in Louisiana, there are too many private landowners to contact to find out if waters are open or not.
7. **Mr. Simmons** asked that if there was accurate information for anglers, would that be suitable for a tournament to return or if BASS is simply boycotting Louisiana until access laws are changed? **Mr. Gilliland** assured that if BASS could provide a level playing field, the state would be back in play. Their aim is to provide a fair opportunity to anglers without worry of being in water that's off limits.
8. **Sen. Chabert** mentioned that the economic impact of tournaments is very important to the state revenue. Louisiana relies strongly on tourism dollars. He stated that there is a big misconception on the public water system in this state and millions of acres are publically accessible. He feels that we need to do whatever it takes to get to a point where BASS would want to come back to LA. He asked for specific recommendations on what can be done other than changing the law? **Mr. Gilliland** brought up several points: Ideally, navigable waters that are open to the public. Reasonably well marked areas and maps indicating where you are allowed are helpful. Outreach efforts to dispel misconceptions about fishing in LA; BASS is hearing uncertainty from around country about where in LA you can and can't go. **Sen. Chabert** noted that Louisiana has a fundamental problem of sand shifting in coastal zone. Property can change season to season. Our state agencies need to do a better job of labeling and working with BASS. He

stated that BASS should have conversations with local governments about talking to landowners regarding utilization or labeling canals. He also mentioned that the bigger issue is old pipelines becoming exposed. Mitigation is very difficult. He closed by encouraging BASS to work with stakeholders because we would like the BASS tournament back in Louisiana.

9. **Mr. Robillard** wanted to clarify several points. First, the 5.7 million acres that keeps being referred to is very rough and not accurate. It also includes the Gulf out to the 3 mile marker. State Lands has maps available to public and is willing to work with individuals about specific areas if they have questions. Most importantly he noted that no amount of mapping will solve the problems. There are a number of issues (pipelines, mitigation, dual ownership, etc.) besides just mapping. There are also a number of water bottoms that still are not labeled, despite all of their efforts to label.
10. **Mr. Robbins** had several questions about pipelines, specifically in other states. He asked if the Orange, TX area has as complex of an ecology with canals, marshland, pipelines, as Louisiana. **Mr. Gilliland** stated that there are some but can't speak to whole area. He is unsure what erosion and subsidence issues they have. BASS has only encountered one issue with restricted areas in Texas. Texas law is written that if water is navigable, it is open to public. **Mr. Robbins** then inquired about BASS's other functions, clarifying that they fight for public access to waters all across the country. Additionally, he asked about the process of tournaments, specifically if anglers are required to launch from one designated location, which **Mr. Gilliland** confirmed. It was stated that Louisiana does not have enough fishable water that can be accessed from one single launch site to be able to accommodate a tournament.
11. **Sen. Allain** asked specifically what is required to return to Morgan City. **Mr. Gilliland** responded that accurate mapping, host fees, and specific labeling of where you can fish are all helpful. There is no requirement on acres, just a single launch site. **Sen. Allain** also brought up the concern that fast boats are unable to go through sensitive marsh so those areas must be labeled as restricted. He also noted that everyone working together (state agencies, BASS and the host community) could go a long way to solving these issues.
12. **Rep. Amedee** inquired as to whether any other states have similar issues with public access and if any do, how have they addressed it? Further she asked that BASS check with affiliate states to see if there is any information they can share with Louisiana that we may be able to use as a model while crafting our plan to address this situation. **Mr. Gilliland** noted that South Carolina is the most similar to LA but that most other states have fewer restricted areas, therefore it is easier to map where the fishermen are allowed to go.
13. **Mr. Cresson** noted that BASS has most powerful outreach in industry. He asked if they are able to help Louisiana with outreach as we work through these issues and try to find solutions. **Mr. Gilliland** responded that they are happy to help and that as much as BASS puts on tournaments, they also are a large media company. He did reiterate that they are very bass fish focused so it is important that they stay very aware of members and their expectations.

14. **Mr. Robbins** mentioned a pipeline map for the Gulf Coast region that he requested to have included in the minutes. This map depicts the pipeline complexity from W. Florida down to the Texas/Mexico border. He further noted that 3 other states have complex networks like us. The map is attached as **Attachment B**. **Sen. Chabert** interjected that subsidence and erosion further complicate the complexity of the situation. He also stated that it's important to highlight potential for this issue in other states, it's not exclusive to Louisiana. He mentioned that other states have figured out how to legislate around these issues and so can we. Additionally, the liability issue is a major concern.
 15. **Mr. Simmons** noted that many of his conservation initiatives deal with fisheries habitat and urged BASS to please reconsider total open access for South Louisiana, in light of the fragile ecosystem. Further he mentioned that unfettered access isn't practical, especially to water bottoms.
 16. **Mr. Carpenter** inquired about the BASS organization and their strict adherence to rules and how they expect a certain level of decorum from their anglers. He asked specifically what happens if landowners show up at the weigh in station to report trespassers on their property, even after distributing maps? **Mr. Gilliland** responded that if the angler is issued a citation and BASS feels as though it gave him competitive advantage that would be grounds for disqualification. We advise our fishermen to take the high road and leave if a question ever comes up. He added that if an angler sees a competitor in a restricted area, they should report it for review.
 17. **Rep. McFarland** questioned whether there are any access issues in North Louisiana, specifically the Ouachita River, Monroe area, and the Red River? **Mr. Gilliland** answered that there was a very isolated situation in the backwaters of the Red River several years ago. There was also an Ouachita River issue with a college angler who was asked to leave being told it was "private water". Neither of these instances cause us to not want to return.
- b. Presentation by Rex Caffey and Jim Wilkins, Sea Grant Louisiana on the March 1, 2018 report titled "Preliminary Options for Establishing Recreational Servitudes for Aquatic Access over Private Water Bottoms" which is attached as **Attachment C**.
1. **Sen. Allain** brought up the fact that several of these options have been discussed previously. Public acquisition of land doesn't mean the public would pay for the land, per se. He feels that liability protection is a very big key to a final solution and asked to please be consulted on this issue. Correcting boundaries and decoupling of mineral rights are both possible keys, as well. He also believes that an exchange of information outlining landowner's rights may be helpful. He believes there is a definite path forward with several of these ideas, if done correctly. All groups need to work closely together so progress can be made. Several of these ideas may require constitutional amendments which will require legislation and a vote.
 2. **Ms. Duet** commented that decoupling mineral rights is key. She recommended that the task force hear from folks in the land trust arena but also that it is important to work with the state who will be the entity to promulgate rules about a time frame. She added that if

land is decoupled, it needs to be put into the hands of a certified group to manage for real conservation efforts. She noted that it may be worth further dialogue in the task force and necessary to make recommendations.

3. **Mr. Lovett** followed up with questions on decoupling land. He asked what stakeholders are being told about current statutory regime. Is there a sense that the freeze statute is too vague or indefinite? The presenters responded that it only applies to active leases, the statute doesn't freeze rights.

c. Presentation by David Peterson, C.P.R.A, on Integrated Coastal Protection Land Rights Acquisition, which is attached as **Attachment D**.

1. **Mr. Robbins** asked for clarification on several points. There are provisions for exchanging mineral rights for coastal restoration, do they allow room for exchange of mineral rights for anything else? **Mr. Peterson** answered that one provision would be public access. He noted that if the state is acquiring the land it's easier to work in public access rights. With a public trust mandate, he was unsure how that will be handled and it could be a negotiable element. **Mr. Robbins** then asked about the acquiring of a 30 year servitude and whether there is nothing additional for coastal protection? **Mr. Peterson** confirmed, noting that there are limitations on what can be done with the property. They must stay consistent with coastal restoration projects and additionally, if the 30 year time frame passes, they must start all over again. However this is an issue they are hoping to address moving forward.
2. **Mr. Darden** asked about the proposed regulations. Specifically, what would happen with dual claimed lands if land re-emerges after subsidence, do the rights stay with the state or return to the landowner? Would the freezing statute apply if owner grants mineral lease of property? **Mr. Peterson** replied that the process is unclear and is something that needs to be addressed in regulations. **Mr. Darden** noted that he will submit a comment on this issue.
3. **Mr. Garrett** noted that there doesn't seem to be one size fits all solution for the problems. He asked if there will ever be situations where CPRA doesn't want property for public access, to which **Mr. Peterson** replied "yes" and that they will have full discretion on how the land is used. He also confirmed that the regulations apply only to the coastal master plan.
4. **Mr. Carpenter** also brought up dual claimed lands. Specifically, if land has subsided and state lands doesn't claim it but it is restored by CPRA, is it then privately owned if it emerges again? **Mr. Peterson** explained that this issue hasn't been resolved. He noted that there have been some shaky court opinions on this subject but it needs to be further clarified by the Legislature. He also pointed out that CPRA doesn't get involved in the fight over who owns land; that is between the landowner and the state.
5. **Sen. Chabert** brought up several points about the sources of the funds that goes toward coastal restoration. He referenced page 15 of Coastal Annual plan which shows specific tables depicting where the money comes from. The overwhelming majority is from fines, royalty revenue and lease payments. He noted that a very limited amount of revenue

comes from private taxpayers, however some projects do get capital outlay funds which is directly from taxpayer. He also briefly discussed the issue of pipelines and the frequency of dealing with them, also noting that mitigation for oil and gas can be very costly.

6. **Mr. Caffey** noted that diversion projects are different and their footprints are larger. He asked several questions about flow easements; what kind are they and how far away are they from the structure? **Mr. Peterson** stated that CPRA is looking into how to handle these; it is different from previous projects. They are examining impacts and how they relate to land rights, and are just starting to get into weeds of what agreements will look like.
7. **Mr. Marshall** inquired if the perpetual minimum interest agreement may be affected by changes in shoreline, as well as the effect if it is located further inland? **Mr. Peterson** stated that this issue needs further examination and there is definitely a need to explore rivers and non-tide lands. He also clarified that the protection in current statutes do extend to inland waters, as well as barrier islands.
8. **Mr. Vorhoff** clarified that the state would retain ownership of the land if the water bottom erupts again. He also confirmed that restoration work on private lands does not indicate that the land is public but noted that there is a gray area when referring to dual claimed lands. He also mentioned that the current statutes set out rights for the state to pass laws spelling out compensation for integrated coastal management.
9. **Mr. LeBlanc** inquired whether the main expense is acquiring land or mitigation. **Mr. Peterson** answered that surface rights are given from landowners at no cost. He further explained that with pipelines, you are required to move them which increases the mitigation costs. **Mr. LeBlanc** went on to ask for clarification on whether state property can be used without compensation? **Mr. Peterson** explained that state water bottoms can't be given away at all. There is a subpart in the statute that says for coastal restoration projects, mineral rights can be negotiated but lands remain state lands. **Mr. LeBlanc** then asked a series of questions regarding ownership of state running water to which **Mr. Vorhoff** went on to explain that the state owns running waters and territorial streams and they are public assets. **Mr. LeBlanc** further asked that if someone digs a private canal and existing state water flows into it, if they are stealing state assets? Is that not then public canal? **Mr. Vorhoff** stated that there is a current request for the Attorney General to examine this issue and the opinion should come out soon. **Mr. Peterson** then commented that a large number of these water issues predate current state law and are very unclear. He also stated that Attorney General Opinions give guidance to the legislature to create law.
10. **Mr. Darden** made the statement that while ownership of water belongs to state, that does not necessarily mean right of access to the public.
11. **Mr. LeBlanc** then commented that he feels the law isn't addressing individuals taking water and using it for their own private use without paying for use of the water.

d. Discussion of information requested at December 4, 2018 meeting

Mr. Canfield gave an update on the request for presentation on state mineral disputes and said it should be on the agenda for the next meeting. He further noted that most settlements he has been involved with were for dual claimed property and dealt with allocation of mineral interests between the landowner and state. He also stated that they are mostly tied to existing units. Additionally, he will reach out for assistance on what has been done to settle disputes and where is the line drawn; i.e. what is and isn't allowed constitutionally. Another item was CPRA funding which was addressed at this meeting. He also mentioned needing assistance to get certain presenters, especially on criminal aspect of trespassing. Any ideas? Also on property tax issues/ valuation aspect for coastal properties. Any ideas who would be helpful?

Sen. Allain suggested that a formal written request go to the Sheriffs Association and the District Attorney Association for a presentation on this issue. The task force is trying to find solutions and they are an important piece of the pie.

Sen. Chabert requested that since the task force has not yet had any testimony on the CPRA Annual Plan that they come to give road show presentation so the task force members can see what the master plan is. Could be very beneficial for them to see what they have planned.

Mr. Carpenter made a statement in reference to a presentation from the last meeting on scientific report from the College of William and Mary. It was solely about how detrimental boat waves are on the canals. He did take time to read the full report following the meeting. He noted that the report was mostly about how bad boats are to the marsh, mentioning that Page 12 of the report says, "It focused on boat wave induced erosion only." Also, on Page 18, that less than 5% of shoreline waves are attributed to boats. Very important to note that report says they chose an area popular for boating but shielded from wind so wasn't exposed to wide open bay. Mr. Carpenter stated that he found another report titled "Notes on Shoreline Erosion Due to Boat Wakes and Wind Waves" by Tim Gorley, and that he can provide a link to the task force. Report noted the difficulty of comparing the effect of different waves on shorelines. He went on to make a request that if the task force receives testimony from scientific reports, he'd like to receive the information ahead of time to be able to familiarize with information to better engage with presenters.

Ms. Duet thanked **Mr. Carpenter** for looking into this and bringing it to the task force's attention. She stated that most of the members do understand difference between boat wakes and other attributing factors to coastal land loss. While she is not sure where to find more definitive information on this issue but CPRA may be a good start. Has their science group investigated this? Maybe Water institute? She suggested that more resources should be applied to research.

Mr. Canfield stated that the group needs to vote to add Mr. Carpenter's agenda item. There was a Motion and a Second to add an agenda item requiring prior submittal of scientific reports. There was group discussion of Carpenter's suggestion and what is a reasonable amount of time to review reports? It was suggested that technical reports to be presented to the task force should be submitted a week before the meeting and the Chairman will immediately forward to members.

Sen. Chabert further requested that a hard copy also be available to members on the day of

meeting. There was a motion for early submittal by **Mr. Carpenter**, second by **Mr. Cresson**, and the motion passed.

e. Discussion of Next Task Force Meeting – Scheduling and Agenda Items

Mr. Canfield briefly discussed scheduling the next meeting, noting that session starts April 8th, 2019. It was said that the task force would meet sometime in March, prior to session. The Chair will send around several dates to schedule. This was followed by a brief discussion on agenda items for the next meeting.

V. PUBLIC COMMENT

- a. **Mr. Richard Cantrelle** commented that the laws on public access are so many and so confusing, he wasn't sure how anyone can keep track of them all. He stated that he believes we need to start over and come up with laws that work for everyone. Mr. Cantrelle stated that he is not worried for himself; but he's concerned for his children and grandkids. That's who he's doing this for. Mr. Cantrelle, then showed a map of areas he has fished and identified several canals that he has fished for more than 50 years which have just recently been blocked off by private landowners. Before long, he stated, there won't be anywhere to fish. Mr. Cantrelle mentioned a law on the books in Thibodaux that stated waterways with tidal flow are accessible to the public, he then mentioned a specific canal that experiences tidal flow, which was recently blocked off. Mr. Cantrelle also mentioned that air boats do more than almost any other water craft to tear up the marsh, but that wind induced waves did by far the most damage.
- b. **Mr. Kenny Winsom** (spelling?) stated that taking away fishing opportunities from members of the public was not fair. It was one of the things that gave him and other people the most joy. Mr. Winsom asked that he be allowed to come back and address the task force in the future.
- c. **Mr. John Daniel** stated he was a recreational fisherman from Addis, Louisiana. I have heard a lot of discussion about the value of fishing tournaments and mineral rights, but what about the value we all receive from going fishing and not just the value for us but the value of going fishing with our kids and grandkids. What you are considering today will determine what values we are setting up for our grandchildren. Mr. Daniel mentioned that he has a fishing camp near Lake Verret. He mentioned a canal that he had fished for years that was recently gated. If this keeps up, Mr. Daniel continued, landowners can block off all the canals and block off many areas from fishing. Is that the kind of legacy we want to leave our grandkids, he asked. Also, Mr. Daniel stated the task force should look into the economic value recreational fishing brings to the state as it is far more than tournament fishing. Mr. Daniel also stated that it is very difficult to determine where he can and cannot go fishing. He shared a story of fishing a natural canal off of Bayou Blue with his wife when he was approached by a man in an unmarked boat who had a lever-action rifle with him. The man told him he could not fish in the canal. When Mr. Daniel asked if he had any credentials with him demonstrating he had the right to kick them off the canal, the man patted his rifle. When Mr. Daniel returned home he went to the online map with the State Land Office layer to see if the canal was public and saw that it was dual claimed. Mr. Daniel asked is that right? Does

the fact that the canal is claimed to be owned by both the State and a private landowner mean he can't fish there? Mr. Daniel reiterated the need for a solution.

VI. CONSIDERATION OF ANY OTHER MATTERS THAT MAY COME BEFORE THE TASK FORCE – There were no additional items for consideration.

VII. ADJOURNMENT – the meeting adjourned at 1:16 p.m.