MINUTES

PUBLIC RECREATION ACCESS TASK FORCE

April 2, 2019

A public meeting of the Public Recreation Access Task Force was held on Tuesday, April 2, 2019 beginning at 9:30 a.m. in House Committee Room 1, Ground Floor, Louisiana Capitol, Baton Rouge, Louisiana.

I. CALL TO ORDER

Mr. Blake Canfield called the meeting to order at 9:32 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:

Rep. Beryl Amedee
Mr. Mike Benge
Mr. Jim Wilkins (*alternate for Rex Caffey*)
Mr. Blake Canfield
Mr. Daryl Carpenter
Mr. David Cresson
Mr. Taylor Darden
Ms. Cynthia Duet
Mr. Cole Garrett
Mr. Joseph LeBlanc
Mr. John Lovett
Mr. Charlie Marshall
Rep. Jack McFarland
Mr. David Peterson
Mr. Lucas Ragusa
Mr. Sean Robbins (*left at 11:35 a.m.*)
Mr. Jonathan Robillard
Mr. Jay Schexnayder
Mr. Jeff Schneider
Mr. Tony Simmons
Mr. Ryan Seidemann (*alternate for Harry Vorhoff*)

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

Sen. Bret Allain
Sen. Norby Chabert

Mr. Canfield announced that twenty-one (21) members of the task force were present and that a quorum was established.

III. APPROVAL OF MINUTES

A motion by **Rep. Beryl Amedee** to approve the minutes for the February 19, 2019 task force meeting was approved unanimously.

IV. PRESENTATIONS AND DISCUSSION ITEMS

a. Presentation by Professor John Lovett, Task Force Member appointed by the Louisiana State Law Institute, titled *Recreational Access Rights: A View from Abroad*. His presentation is attached as **Attachment A**.

1. **Mr. Cresson** asked whether tidal influence has an impact on application of these laws. **Mr. Lovett** responded that no, because in Britain while inland waters are generally private tidally influenced waters were always deemed public and open to public access. Since the law seemed clear as to this issue, the laws did not address them. The closest analogy would be access rights to inland waters. In Scotland salmon fishing is considered a property right that is alienable. One can sell their salmon rights separate from the property. He stated that you can canoe on those inland lakes or waters but the fishing or hunting rights are deemed a private right there.
2. **Mr. Benge** asked whether Scotland and England have public parks or lands where these activities could take place instead of on private property. **Mr. Lovett** stated that they do but public parks and lands weren't actually created in England or Scotland until much later than they were here. In England public parks were not first created until after WWII and they were generally much smaller. He stated that what they call national parks there are actually very different from our national parks. There, the national parks are made up of private land where the government assists private landowners and access seekers with support to maintain the ecological properties and land use values of that land. He stated that he thinks this is partly why there was a need to come up with the solution they did. In both England and Scotland, the populations are overwhelmingly centered in big cities and the lawmakers needed a practical way to get the public access to nature. He concluded this was a major reason why the solutions set forth in these acts were reached.
3. **Rep. Amedee** asked if he could provide more information as to recreational hunting and fishing in Scotland and England. Is there a robust recreational hunting and fishing industry there? **Mr. Lovett** answered that there definitely is, typically individuals who can afford it, work out an arrangement to go hunting or fishing on private property with the private landowner. This is big business and a major source of revenue for large landowners. He continued, this is one of the reasons why in the compromise made in Scotland, the private landowners retained their rights to grant hunting and fishing rights. The recreational activity that most people wanted to take part in was hill walking. Mr. Lovett recognized that it is a different situation here than there as to the recreational activities members of the public want to take part in. So, while we can look at these two

countries solutions to the problem, we wouldn't want to copy every specific compromise reached in Scotland or England. He stated that he thinks their insight was to recognize the recreational use most wanted by the broader community and impose limitations allowing those activities in a responsible manner; and then they identified what the landowners would need to maintain their estates and ensured that those activities were allowed under the compromises. **Rep. Amedee** stated that she thinks we can recognize that here most of the public would want to go hunting or fishing, but based on the humidity, the mosquitos and lack of hills, I don't think hill walking would be high on the list of activities our public is interested in. Where would the average factory worker there go to take his son hunting? **Prof. Lovett** stated I don't think there are many places for average members of the public to go hunting or fishing and the compromises in England and Scotland don't envision those types of public uses.

4. **Mr. Simmons** asked how does England or Scotland address the conflict between deer stalking and public access where a man is trying to hunt for a deer on a lease that he has paid for and there are members of the public walking through an area that may be in his field of fire? **Prof. Lovett** stated that both countries allow for land managers to request temporary restrictions to public access when they know an activity will be taking place that is not conducive to public access. This is commonly granted for deer stalking or for timber harvesting. This came out of the public comment periods associated with both law's passage. He added that courts have also been able to work out such conflicts by recognizing that landowners have reasonable bases for restricting public access taking in specific situations.
5. **Mr. Schneider** asked if these programs had any effect on either mineral rights or property taxes. **Prof. Lovett** stated no, he was not aware of any impact on mineral rights or property taxes. The economic reality was that rural landowners were receiving large subsidies from the European Union and I think that is one reason why the landowners saw that they needed to compromise over land access, because they were receiving large public subsidies already.
6. **Mr. Darden** asked about the right to roam in England and Wales on coastal lands and what was the demarcation between the coast and inland lands. **Prof. Lovett** mentioned that there was a slight increase of the coastal areas in the access laws, but the general distinction is that coastal lands included the foreshore and a very narrow perimeter along the coast in England and Wales. Again, inland waters were restricted, but in England and Wales the access granted was just a pedestrian right of access, so they didn't address water access. In Scotland they had a broader approach and recognized a right to access inland waters, but not to fish. **Mr. Darden** asked if within these countries if there was a concept of navigability or non-navigability? **Prof. Lovett** stated there was nothing like what we have here. They did not have to demarcate waters there as we do here, because there was general agreement that tidally influenced waters were open to the public and those that were not tidally influenced were closed. They sidestepped the issues we are constantly struggling with over private versus non-private property by creating these access rights that cross-over private and public property lines. So in Scotland, if you are reasonably taking access it doesn't matter if you are on public or private property. It is

only important whether your access taking is being done responsibly. **Mr. Darden** then asked whether immunity from liability for landowners was addressed. Is there some protection for the landowners if a member of the public is injured while accessing your private property? **Prof Lovett** stated that despite this being a concern prior to the access laws, it has not arisen much since. This is primarily because, like our immunity statutes here, Scotland already had laws saying that a landowner was not liable if a member of the public was injured on their property when that person was not specifically invited onto the property by the landowner. The public access taker assumes the risk. Also, it is a different culture there. The attorneys there take a risk if they take a losing case, since they have to pay the attorney's costs.

7. **Mr. Garrett** asked along those lines as it relates to deer stalking, what happens if the landowner fails to restrict and someone is injured or killed by a hunter who has been invited onto the private property. **Prof. Lovett** stated he was unsure if that hypothetical has come up. He added, that's why you have to come back to this educational piece, where these governments taught the public how to responsibly take access and avoid dangers while accessing private property.
8. **Mr. Canfield** brought up the differences in the legal regimes in the UK and here and how things would be different here as to takings and private property if something similar to the Scottish and English laws were implemented here. **Prof. Lovett** stated that one of the successes of the laws in the UK is that supporters were able to convince a lot of landowners that they would gain under the access laws. If those laws were implemented here it is likely that a private landowner would bring a takings claim and they could probably make a good case. He continued that he can't predict who would win. He noted that there are arguments on both sides. He argued that it might be analogous to arguments over takings claims involving zoning laws. While everyone probably loses a little something, they also benefit as everyone could also be an access taker in other places. People have talked about challenging these laws under EU rights, and have brought several cases, but under the UK equivalent of takings arguments there has not been a successful challenge to these laws to date. **Mr. Canfield** then mentioned reading Professor Lovett's law review article and noticed that certain commercial activities were prohibited in the UK, and asked whether a business built around a responsible use was entitled to responsibly access private land. **Professor Lovett** answered that this was correct. The law recognizes that if you are engaged in one of the permitted activities in a commercial endeavor then that business was allowed to partake in the access. They were particularly thinking of backpacking guides, similar to our fishing guides.
9. **Mr. Marshall** stated that your presentation made him think of the doctrine of correlative rights here. If a landowner agrees to allow access to his property the doctrine of correlative rights governs competing uses of the property. The problem of correlative rights, he continued, is that what a court might determine to be reasonable is a jump ball. I would guess that you would have the same problems here in determining what is reasonable. **Prof Lovett** agreed, saying it was striking that they did not come up with specific rules defining what was reasonable in every situation. Rather, they rely on a general requirement that the use be reasonable. What happens over time when you have

broad standards is that you have several test cases that courts decide defining what reasonable use looks like. That is how the common law develops. That's the approach they took and it has generally worked pretty well. They did try to push the ball forward by creating this soft law reasonable access code that gave examples of what reasonable access would look like. Both sides were involved in creating that code, so it really worked well.

10. **Mr. Garett** asked how does the reasonableness standard work differently between an individual and a group. For example you have a great site everyone wants to hike on and you have hiking companies that now are bringing a hundred people or more to hike your trail. At what point does a use that is reasonable by an individual become unreasonable due to the number of people using it over a given period of time? **Prof. Lovett** admitted you do have to draw the line somewhere. While I don't know the exact point, a commercial enterprise that brought too many people at one time would probably run afoul of this reasonableness rule.
11. **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 the 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 them.

b. Presentation by Blake Canfield titled "Settlement of Mineral Disputes Involving Dual Claimed Waterbottoms" which is attached as **Attachment B**.

1. **Mr. Marshall** asked whether Mr. Canfield agrees that where the State makes a claim of ownership of a water bottom due to erosion, it is just a claim until a Court makes a determination of where title vests. It is not self-operating in other words? **Mr. Canfield** stated he agreed that it was ultimately up to the Court to make a decision as to title. **Mr. Marshall** continued that the State did not have the authority to unilaterally claim that it's the owner and the private landowner's title is divested. **Mr. Canfield** responded that he agreed that the State would have to go to court to get the title declared. **Mr. Marshall** followed up, that the landowner owns the title, typically derived from the State through the Federal Swamp Lands Acts, so he has a piece of paper saying he owns the property and that his title, in his understanding, is good against the world until it is taken away by judgment of a court. The purpose of this is to determine if a claim rises to the level of a vested property interest to implicate the constitutional prohibitions against alienation of State water bottoms or the giving away of a thing of value owned by the State. So, to me the *American Lung* case recognizes that a claim is just a claim and therefore the State and private landowners can compromise without running afoul of the constitution. The problem is, in his view, that if we do anything without a constitutional amendment it is like playing Russian roulette, because if you are wrong in your view that the constitution is not implicated then the settlement can be attacked at any time by anyone, including one

of the parties to the agreement. So, in his view, if this task force is going to work out some type of resolution with a landowner, especially for a landowner who is concerned with erosion caused by future increased vessel activity, then an agreement whereby the landowner allows for recreational access will need constitutional authorization. If not then there will always be a risk for both the landowner and the State. **Mr. Canfield** agreed, stating he felt the risk on the State side, especially if we are talking about something as vast as the entire coast. In that case a clear provision in the constitution is likely a must to avoid any solution being perpetually open for attack. **Mr. Marshall** then stated that in order for us to work towards some type of solution, don't we need some type of indication from the State from the various agencies that they are on board with this type of solution. If the State is not more flexible with this approach, then I feel like we are wasting our time. **Mr. Canfield** agreed that such a solution would require working with the State agencies. He continued that he was not in a position at the table to make those commitments. **Mr. Marshall** stated he did not expect a commitment at this time, he just wanted to make it clear that for landowners to feel comfortable with consensually agreeing to allow access in exchange for settling these disputed claims, they would need some type of assurance from the State.

c. Presentation by Taylor Darden, titled "Private Ownership v. Public Access – A Possible Solution", which is attached as **Attachment C.**

1. **Mr. Robbins** asked for clarification on whether Mr. Darden's proposal would involve voluntary agreements whereby landowners allowed public access on just the dual claimed water bottoms or on other waterways as well. **Mr. Darden** stated that the proposed constitutional amendment would only address mineral rights as to dual claimed lands, but it would be up to the private landowner to grant access there or elsewhere. **Mr. Robbins** then asked Mr. Darden to define what he meant by limited access. **Mr. Darden** stated that the devil is always in the details and that leads to the regulatory process. If the Department of Wildlife and Fisheries is going to administer this, I would think LDWF, landowners, and other members of the public would be able to flesh out what kinds of rules would be adopted to define the types of access that would be applicable. That's the only way I can see to do this, Mr. Darden continued, and that would be funded by a fee to be paid by the sportsmen wanting access. If a party then doesn't have the appropriate permits or they do not abide by the applicable rules, then they are evicted by the State and don't get to come back to that area or to the whole area. Mr. Darden continued that he thinks the details are to be worked out between the landowner, the state, and the public. **Mr. Robbins** agreed that like Professor Lovett stated, if a member of the public doesn't act responsibly then there needs to be some form of punishment. Mr. Robbins continued, "I also want to thank you for being the first one to present a proposal. I think it is far past time to have gotten to this point"
2. **Mr. Garrett** asked about those areas covered by a public access servitude under the proposal, whether the full suite of surface rights would go to the State or would the private landowner retain some surface rights, such as the ability to have duck leases or to

undertake commercial activity. **Mr. Darden** said that might have to be negotiated on an individual case basis. He stated that he think this gets to correlative rights and generally he would think the public would be allowed access but the landowner would be allowed to manage his property. This would have to be handled as a management matter and it could be that the public has the right to fish but during duck season in areas that have long standing leases, the public access would have to be limited. **Mr. Garrett** pointed out that this would be a departure from how DWF handles its WMA's, which is where the public has generally free access to fish and hunt in accordance with regulations. Another issue raised by Mr. Garrett was the matter of private oyster leases and whether they would be allowed in these servitude areas. **Mr. Darden** acknowledged that this was a difficult issue to manage and would have to be worked out. He also commented that in his view this is something that is likely to be different from area to area. **Mr. Garrett** mentioned the preference would be to have a template to apply everywhere; not just for the public access but also from a regulatory management perspective. He did not anticipate this creating a whole new class of hunters and recreational fisherman. Those already licensed to hunt and fish would probably be licensed to take advantage of this proposal. Mr. Garrett mentioned that with this being the case, there would not be much increased revenue for LDWF but under this proposal there would be substantial new costs in managing these areas. He further stated this is a concern we have and asked whether there was any consideration of providing a portion of the minerals to pay for this regulation. **Mr. Darden** stated that in his estimate most landowners would not be willing to yield a portion of their minerals for that management. **Mr. Garrett** asked what would happen in the future as erosion continues and the boundary has already been set. What incentive does a landowner have to allow for restoration or coastal protection? **Mr. Darden** stated that as the land erodes inward the servitude moves with the erosion and therefore the landowner will be incentivized to work with CPRA to prevent the increased movement of public access onto his land and the increased erosion of the purely private portion of his property.

3. **Mr. Simmons** stated that considering the point that this is a dynamic coastline, do you think that including non-dual claimed lands in the proposal would be a positive for landowners as they may become dual claimed in the future. He continued that private landowners may welcome the opportunity to draw these boundaries now in exchange for providing surface servitudes in perpetuity. **Mr. Darden** stated that absolutely he thought landowners would welcome that opportunity because it creates stability of title moving forward in exchange for a public surface servitude. I don't know how you do this otherwise. Mr. Darden also mentioned that a federal servitude of navigation might apply as land erodes, but such a servitude does not cover recreational activities. Both sides would have to yield on portions of their claims.
4. **Mrs. Duet** mentioned that the National Audubon Society has ownership of 26,000 acres in coastal Vermilion Parish which is a sanctuary where fishing, hunting, or trespassing is illegal by law. She asked for Mr. Darden to be thinking how sanctuaries would fit into this proposal from a legal perspective. **Mr. Darden** stated he wasn't sure if the Audubon Society has any dual claimed areas, but he agreed to think about it.

5. **Mr. Cresson** asked how he envisioned the negotiations between landowners, the public and the state taking place. **Mr. Darden** stated that he expected it to be on a cases by case basis just like how a dual claim issue is currently addressed. As for the restrictions to be implemented by LDWF those will have to be put into regulations. **Mr. Cresson** asked how do we get to a point of getting legislation and a constitutional amendment. **Mr. Darden** stated that his hope is that his proposal or a portion of it would end up in the task force's report to the Legislature and that off of that legislation would be drafted.
6. **Mr. Peterson** asked where the statistics of the number of acres that were dual claimed and public access was being allowed came from. **Mr. Darden** stated that it was from the Legislative Auditor in one of their reports, but he did not know the methodology they used to come up with that number. **Mr. Peterson** asked for Mr. Darden's thoughts on the regulations proposed by CPRA for something similar to be negotiated between the state and private landowners and whether those provisions could be modified to allow for the type of negotiations you are foreseeing. **Mr. Darden** stated that his problem with those regulations is that with emergent lands if they subsequently erode then the agreement between the private landowners and the state go out the window. Another problem identified by Mr. Darden was whether a landowner received the benefits of the freezing statute if production occurs on emergent land that subsequently erodes. What I am suggesting Mr. Darden stated does away with that by creating a fixed boundary. He further stated that he thinks private landowners would want to enter into agreements that did this. **Mr. Peterson** followed up asking whether private landowners would be open to a negotiation over a mineral split or an override of a small percentage to generate some revenues for the State's costs. **Mr. Darden** stated that while some landowners may be ok with such an arrangement, he did not think it would be the policy of the Landowner's Association to support such a split in minerals. What is the cost benefit? That's really what it comes down to. Individual landowners would have to make that determination. **Mr. Peterson** asked if Mr. Darden saw a problem setting such a split in statute. **Mr. Darden** stated he thought it could be set in statute so long as it is voluntary. He stated the problem is if you try to mandate it.
7. **Mr. Marshall** commented that the proposal should be amended slightly to include a landowner who is willing to donate complete control of the property (both land and water), thus giving LDWF the ability to do whatever it wants to do with the surface while reserving the mineral rights to the landowners. This would be voluntary of course. **Mr. Darden** stated that he recently worked with SLO on a similar negotiated donation. He would be open to that proposed change.
8. **Prof. Lovett** asked whether we could reach the same outcome by amending the freeze statute and thereby avoid amendment of the constitution. We would expand the freeze statute to allow the private landowner to lease for minerals even after change of ownership to the State. **Mr. Darden** stated he thought you would still need to amend the constitution because if you allowed the private landowner to maintain the minerals when there was no existing lease at the time ownership exchanged hands due to erosion you would essentially be drawing a property boundary and alienating the State's water

bottoms. The second problem is that it really doesn't address the problem of navigability that would be addressed by a boundary drawing.

9. **Mr. Carpenter** asked whether Mr. Darden envisioned his plan being a line drawn across the coast and then the landowners can decide to opt in or out, or do you envision this process including a line being drawn for each landowner. **Mr. Darden** all this does is give the State the ability to negotiate boundary agreements, the proposal does not set a boundary agreement, so it would have to be on a case by case basis. **Mr. Carpenter** then asked how we codify that. If a landowner enters into one of these agreements and agrees to certain concessions, then what happens if that landowner sells the property to someone else that doesn't want to abide by the agreement? **Mr. Darden** stated that it would be a real property right and once the instrument creating this right is recorded then that servitude attaches to that property and would go with it forever.
10. **Rep. Amedee** asked about the map on the third page of Mr. Darden's presentation and then a couple of pages later where it states that the State claims ownership of almost 6 million acres of water bottoms, I was curious if that statistic included water out to the 3-mile mark? **Mr. Darden** responded that it does. **Rep. Amedee** then asked what in Mr. Darden's proposal would incentivize the inland property owners to participate. **Mr. Darden** stated it would be stability of title and that it would get rid of dual claimed titles.
11. **Mr. LeBlanc** stated that he assumed the boundary line discussed in Mr. Darden's proposal was just along the coast. **Mr. Darden** responded that it would be a boundary agreement that any landowner across the state could decide to draw with the State providing a landward and seaward boundary for all time. He continued that the Legislature could not draw a line if it wanted to because the coast in Louisiana is constantly changing. **Mr. LeBlanc** stated he wanted to make sure that the proposal wasn't just along the coast, as this task force was supposed to be working towards solutions state-wide and not just along the coast. **Mr. Darden** agreed that it was a fair point, but that we'd have to all agree that the epicenter of this problem is south of I-10. Mr. Darden continued that he does not believe that the concept can be applied statewide. **Mr. LeBlanc** then stated that he understood that Mr. Darden's proposal was primarily concerned with dual claimed land, but that dual claimed waterbottoms aren't the only place where lack of recreational access is a problem. **Mr. Darden** responded that it focuses on dual claimed waterbottoms because that is where much of the problem is focused. He went on to say that if what you're seeking to gain access to are private canals, it is the law of the state now that private canals, dredged on private land, and paid for with private money, are private. Similar to a private road on private lands, which are private; and if they are private, then the landowner retains his right to exclude and this proposal does not address that. The solution to that issue is a lease. **Mr. LeBlanc** stated that the constitution states that property of the state cannot be donated. He continued that his understanding is that the waters of the state belong to the State and cannot be donated to the private landowner simply because it flows into a private canal. The taxpayers of the state pay to sustain that water and the fisheries. I agree that the property is private, but that's not the case with the water. If you paved a road with public money, it becomes public. Mr. LeBlanc stated this is his belief of how it should work. **Mr. Darden** stated no

one disagrees that the water is public, but simply because the water is owned by the State does not mean that any member of the public has a right to go on that water in private canals. Otherwise, he asked, what do you have private property lines for any way. This is directly addressed in the *Buckskin* case that I mentioned last meeting. **Mr. LeBlanc** asked regarding the *Buckskin* case whether it concerned rainwater or whether it was naturally flowing tide-water. **Mr. Darden** responded that it addressed naturally flowing water (not tide water) and the court stated that just because the State owns the water molecules in the canal, the public does not have a right to float their boat on it into a private canal. **Mr. Leblanc** responded that he agrees if your yard is flooded, the public shouldn't able to boat on it because it isn't navigable most of the time, but when your canal is navigable all of the time it was a different scenario. **Mr. Darden** disagreed saying it isn't different if I have title to the bottoms. In order for the public to float on it they have to prove that the water is legally navigable. **Mr. LeBlanc** disagreed saying it is similar to planes flying over my house, I can't stop them even though by right I own all of that. Right now the way the law is set in Louisiana your stopping heritage. Fishing in some of these areas is what people have done their whole lives. **Mr. Darden** responded that he isn't trying to stop heritage, he's trying to find a solution, but he also knows that this country was founded on principles of private property. If you look at the early U.S. Supreme Court cases and the underlying theme was that we have to protect private property rights in order to build a nation. In this scenario you can have access, but you have to protect the landowner's right to private property, so if you want access you have to get a lease. Under my proposal, you create a servitude and the landowner yields one of his property rights and will allow the public to access his property for recreational use forever. **Mr. LeBlanc** stated he thought it was a great concept, but still we need to find a way to protect the northern part of the state. Is the boundary line you are talking about set in stone? **Mr. Darden** responded that the outward boundary line is set, but the servitude moves inward with erosion.

d. Discussion of information requested at February 19, 2019 meeting

Mr. Canfield stated he wrote letters as discussed in the previous meeting to seek presenters on the criminal trespass issue and the property tax issue. He stated he will continue to follow up on those requests. He mentioned that he would reach out to CPRA regarding the State Master Plan Presentation discussed at the last meeting as well.

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

Mr. Canfield briefly discussed scheduling the next meeting, noting that the legislative session starts April 8th, 2019. He 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. He stated that the plan was to schedule the next meeting after the end of the legislative session which was June 6th, probably sometime between June 17th –

28th. As for topics to present on he stated, there could be a presentation on the *Phillips Petroleum* case, perhaps the State Master Plan, a legislative update, or a continuation of discussions on the Louisiana Land Association proposed by Taylor Darden or any other proposals.

V. PUBLIC COMMENT

a. **Mr. Richard Cantrelle** provided written suggestions to be handed out to the members (attached as **Attachment D**). Mr. Cantrelle stated that he lives in Houma now, was born and raised in Lafourche Parish and is a United States Navy veteran that spent three tours in Vietnam. He stated that recreational fishermen generate about $2 billion per year into the economy. Mr. Cantrelle suggested closed seasons on fishing. In South Louisiana, he said, there are four spawning seasons a year; the winter spawn (December and January), the spring spawn (March and April), the summer spawn (June and July), and the fall spawn (September and October). Specifically as to bass, which is what he primarily fishes, not all bass spawn at the same time. In the spillway, where the water is a lot colder, bass may spawn once or twice a year. If you set a season, such as between December and January, to allow the duck hunters to go onto private properties and leases and to prohibit fishing in those areas for that season, then the bass will have one good time to spawn. He stated that his proposal is to close the fishing season from December 15 – January 30. They have seasons for all sorts of other things, such as duck hunting and shrimping. He stated that current laws (perhaps speaking of Civil Code Art's) 450, 452, 455, and 456 are very good and should be made part of HB 391 of the 2018 Regular Legislative Session. As far as the water rights, he stated the only way they should be private is if somebody builds a pond in their yard. He stated, "that to me is what I call a private waterway." If you have an accessible canal or bayou, he stated "you mean to tell me I can't go in there because I am a recreational fisherman? I have rights. Everybody has rights. … Keep the state of Louisiana great. Keep it great for our kids and our grandkids. … Let's get a deal."
b. **Mr. Charles Thibodeaux** stated he is been actively fishing and hunting for over 50 years, before that time, he and his family couldn't afford a boat or a lease. He went on to say the first place he noticed access being blocked was the "tidewater canal" near Golden Meadow. He then started fishing in bass fishing clubs and since then he stated the following were some of the canals and other areas closed to public fishing: Clovelly – all the canals on the left side of Clovelly going toward Little Lake; some of the canals off what I call the "Snake Canal" going towards the LOOP; Lake Theriot where I fished a lot and spent a lot of money on a duck blind in that lake but that was blocked off when the area was sold to someone else and it is private now; Bayou Black -- Bruce's canal, and there are others I don't know the names of; Gulf Oil canals off of the Intercoastal Canal – they've been closed off for years and those were some of the best fishing spots in the Houma area; LaRose –there's some canals coming off of the Intercoastal Canal; Graceland –all of the canals near the Sheriff's work program site –these were some of the best sac-a-lait fishing in the state; Bob's Bayou Black Marina almost had to close because the Williams Company didn't want to give him access to the small canal between his marina and the Shell Barge canal; Morgan City area –there are a lot of areas that have been put off limits, Des Allemands, Black Prince Island canal – there are maybe 8 canals in that area alone that have been put off limits. Mr. Thibodeaux also shared a picture of a canal blocked off (attached as **Attachment E**). The longer this goes the more canals are being closed off from the public. He stated that while he understood the

landowner's rights, not everybody can afford a lease. He stated that he was retired and on a set income and the he couldn't afford to pay $2-3 thousand dollars for a lease for areas I once was able to fish without any problems. Mr. Thibodeaux also mentioned, as an example, that Lafourche Parish spent $500,000 to build a public boat launch in Clovelly that the public cannot use anymore unless you pay the landowner $400 to park on his property and for a lease. Not long ago he stated he came across an article in the news about Catahoula Lake and stated everyone needs to become aware of that court case. He mentioned that the article was written by Jack Montoucet of DWF and it reads "the Catahoula Lake court decision must be reversed." He provided the article to the task force (attached as **Attachment F**). He stated that if this decision is not reversed, goodness knows what is going to happen to the state. He also stated that most people fish out of boats that cost a lot and for those in competitive fishing, he stated, you are going to pay between $40,000 and $80,000. He provided examples of costs for specific boats. Also, he mentioned the money spent on gas, oil, taxes, and licenses. All of which support the State. Mr. Thibodeaux also questioned who was going to support all of the businesses supported by recreational fishing and the people they employ. If there isn't a place to fish, who is going to spend all of the money required for recreational fishing? He went on, somewhere there has to be a compromise, because without it sooner or later it's going to start affecting jobs. He stated that he watched the Bassmaster Classic on tv and just on the first morning there were 5,800 people present when it started; the second day there were 6,500 people; and over 100,000 people attended the sportsmen's expo. All of this, he said, benefitted the state of Tennessee. They refuse to come here because of our laws. How far does it have to go, he asked, before the state starts feeling the consequences of what's happening? He hoped that a compromise was reached soon. **Mr. Carpenter** thanked Mr. Thibodeaux for taking time to come and thanked him for his involvement and outrage. It is what has gotten us this far.

c. **Mr. John Daniel** stated he was a recreational fisherman from Addis, Louisiana. He thanked Mr. Darden for his proposal and stated that the devil is in the details. One of them, he stated, is what to do about areas where access is denied because they are already gated, such as the Curtis Grove canal down in Lake Verret. Many of the gates currently blocking access, may or may not have been installed according to U.S. Coast Guard or U.S. Army Corps requirements. So, Mr. Daniel stated we have to consider what we are going to do for people wanting to put in gates and also how to address those gates already installed. Another thing is public – waterway navigability when adjacent landowners make different decisions as to allowing public access. He asked, how is the fishermen supposed to know where he is allowed when the land is underwater. This has the potential to cause a lot of problems as many of these areas are in open bays. Additionally, he stated that getting to areas where public access is allowed may be impossible if a private landowner in between denies access. He further stated he didn't know how this could be resolved if navigability is determined by individual landowners. With the coast changing over time, even if you set a mineral boundary in perpetuity, he couldn't see how to forever address access. He continued, that addressing this is going to be tough, but you really need to address the definition of a publicly navigable waterway. As to ponds and lakes, Mr. Daniel mentioned that fishing licenses in Louisiana are not required if I am fishing in a pond on my private property that is not connected in any way to a public waterway. He suggested this connectivity of waterways to public waterways could be used in defining where public access should be allowed and where it shouldn't be.

d. **Randy Moertle** wanted to respond and straighten out a few things said earlier regarding Clovelly Farms in Lafourche Parish. Mr. Moertle stated that he is the manager of Clovelly Farms. The previous speaker stated that Clovelly Farms kept out the public. Mr. Moertle stated that this isn't true. He continued that it used to have a Parish boat launch. The landowner went into negotiations with the Parish and they could not reach an agreement, so it became a private boat launch. Since that time, he stated, Clovelly Farms has not denied a single individual use of the boat launch. But, the previous speaker was correct that it costs $400/year, which breaks down to $33/month. You have a tag that is put on your vehicle and you are given a map showing the canals where you can and cannot fish on this private property. He doesn't have any problems with vandalism or littering anymore. He further stated that he has a dock to upkeep and 3.5 miles of aggregate road to upkeep that I have to contract for, which is not cheap. The Parish had a parking lot outside the hurricane protection levee, that continues to sink and so putting more aggregate on it is a losing proposition. He stated that he is building a parking lot inside the hurricane levee protection. He stated that he built docks and solar panels that have to be maintained for lighting on bridges. His lessees are thrilled to have this, he continued, because we have very simple rules for the general public; follow the game rules and fish where it shows you can fish on the map. The rest of the areas are leased, which is how he makes his living-leasing private property that he manages. We also have a one-strike and you are out rule, he stated. If you cannot follow the simple rule of staying out of the private marsh, then you are out. You can fish all the public waters and our private canals. Again, all you pay is $33/month. Try to launch your boat at any private launch anywhere for that cheap. The folks who take advantage of this, begged him the last time the Parish President changed to not make any deals with the Parish. These folks love how it currently works, because they have access to the area, there are fewer people out there, people aren't dumping there couches and appliances on the way to the dock anymore, the roads are up-kept and we don't deny anyone who pays this annual fee. This is good for the general public, this is for the guy who cannot afford to pay for a hunting lease. I have only revoked tags from two people who couldn't follow our two simple rules. One shot over his limit of ducks and the other went under one of the gates onto the landowner's private property to go frogging. He concluded that he just wanted to correct what was said. As for any allegation that people are running folks off with guns, he stated, I assure you that if I get any wind of anybody on our property doing that, they will never see that property ever again. He mentioned that there was an article in Field Stream, where he is quoted and he stated that you will see that we do things the right way. The only problems he has doesn't come from people coming from the boat launch. It comes from people coming from other areas onto the property. Every time they go into our interior marsh and they see us coming they fire up and take off, because they know they are trespassing. And finally this idea that only millionaires are taking leases is just wrong. This isn't just for lawyers and bankers from New Orleans. He said they have welders and plant workers. These leases are generational. They do not turn over. This is somebody's grandson who takes over from his father, who took it over from his father. He stated that he could make a lot more money if he were to lease from one oil company. He has been managing property for over 45 years. He stated that he has a heart for these people. They would rather die than lose their lease, they treat our property as if they owned it. They mark their channels they go in and out of. They don't just go haram skaram because for those that duck hunt, you are tearing up your submerged aquatics. **Rep. Amedee** asked for clarification whether he was the landowner or land manager. She also asked if the

property owner was a family. **Mr. Moertle** said that he is the land manager and that the landowner is a family. **Rep. Amedee** stated that the earlier comment was that the landing was a Parish funded launch that they paid $500,000 for. Did they use public money on that? **Mr. Moertle** stated that he wasn't privy to that information but he's sure they did and that they previously signed some kind of lease agreement leasing the boat launch. As far as he understood the landowner was not receiving money from the Parish for.

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 12:32 p.m.