

MISSISSIPPI COMMISSION ON WILDLIFE, FISHERIES AND PARKS

MDWFP 1505 Eastover Drive, Jackson, MS

WEDNESDAY, MAY 19, 2010 - 8:30 a.m.

Minutes of the Meeting

Present: Commissioners Bryan Jones; Charles Rigdon; William "Billy" Deviney; Jerry Munro; John C Stanley IV. Among MDWFP staff attending were Dr. Sam Polles; Robert Cook; Don Brazil; Ramie Ford; Libby Hartfield; Doug Mann, Special Assistant Attorney General; and Sally Sutherland, Administrative Assistant.

Welcome and Recognition of Guests

Chairman Bryan Jones welcomed everyone to the meeting and Deputy Director Robert Cook opened the meeting with prayer.

1. Minutes for Approval
ACTION: Upon motion made by Commissioner Deviney and seconded by Commissioner Munro, the Minutes from the April 8, 2010 meeting were unanimously approved as presented.
2. Today's Agenda – May 19, 2010
Dr. Polles advised that the Public Comment period will be moved to follow item 7 (Wildlife).
ACTION: Upon motion made by Commissioner Deviney and seconded by Commissioner Munro, the Agenda was approved as amended.
3. Public Comments Regarding Agenda Items (moved to follow item 7 (Wildlife).
4. License Sales Report
Mr. Michael Bolden presented the License Sales Report for the month of April 2010. He stated the overall resident sales are down by 3% which is the best over the past nine months. Staff continues to explore and work on best marketing strategies to increase license sales.
5. Fisheries - Public Notice F14 3423 (State Fishing Lakes) (FINAL)
Chief Ron Garavelli presented Public Notice F14 3423 (State Fishing Lakes) as final. He stated there have been no public comments received since the intent version was filed.
ACTION: Upon motion made by Commissioner Stanley and seconded by Commissioner Munro, Public Notice F14 3423 (State Fishing Lakes) (Final) was unanimously approved as presented.
6. Parks
Mr. Ramie Ford presented the following final public notices:
 - ☐ Public Notice 001 (Park Rules and Regulations) (FINAL)
 - ☐ Public Notice 002 (Park Fees) (FINAL)
 - ☐ Public Notice 002(a) (Firearms on State Parks) (FINAL)

Mr. Ford stated that approximately five (5) public comments were received and all were regarding the fees at Buccaneer State Park. He advised that the fees at Buccaneer have increased since Hurricane Katrina but are lower than average when compared to other area facilities.

ACTION: Upon motion made by Commissioner Munro and seconded by Commissioner Rigdon, all of the abovementioned Parks public notices were unanimously approved as presented.

7. Wildlife
Chief Larry Castle presented the following final WMA public notices:

☐ WMA Public Notices

Note: The Malmaison WMA public notice received the most comments from the public. Of particular concern was whether or not to have a draw hunt system at Malmaison WMA. As a result of the many comments, Chief Castle advised there will be no draw hunt this year and the following three (3) points will be implemented: (1) increased officer presence at the landing and in the water; (2) complete a year-long study of the hunting quality; and (3) implementation of a no wake zone.

Public Comment Period: The following comments were made concerning the WMA Malmaison Public Notice:

Max Edwards: If a draw hunt is implemented, he suggested that the start time be changed to 3:00 a.m. and recommended including the draw hunt details in the public notice for easy reference and knowledge of the rules. Mr. Edwards also referenced Miss. Code Section 51-1-4 (Rev. 1999), Section II dealing with the McIntyre Scatters and requested that it be included as part of the Minutes.

Ron James: Mr. James opposes the draw hunt at Malmaison and requested a change in the launch time to prevent a rush of people at the same time trying to get on the water.

Mark Blake: Mr. Blake is a private landowner and he opposes the draw hunt.

Earl Creely: Mr. Creely is a private landowner in the Scatters and he favors the draw hunt or some solution to the overcrowding problem.

Chris Adams: Mr. Adams thanked Chief Castle for studying the hunting situation and quality at Malmaison for one year. He is against having a draw hunt.

Bishop Robertson: Opposes the draw hunt. He says it takes away the opportunity for children to learn the correct way to duck hunt.

Public Comment Regarding Crossbow:

Gerald Daniel: Represents the Crossbow Federation and he supports the crossbow during regular archery season.

Chief Castle handed out a summary of the WMA final public notices (see attached) and he stated that today staff is recommending a revised Public Notice 3455(a) (Malmaison WMA) which includes the three points previously mentioned.

ACTION: Upon motion made by Commissioner Munro and seconded by Commissioner Rigdon, Public Notice 3455(a) (Malmaison WMA) was unanimously approved as amended.

ACTION: Upon motion made by Commissioner Munro and seconded by Commissioner Stanley, all other WMA public notices were unanimously approved as final.

☐Public Notice W 3806 (Rehab of white-tailed deer) (**INTENT**)

Chief Castle stated that Public Notice 3806 requires that the rehab work be done by a qualified, licensed rehab worker.

ACTION: Upon motion made by Commissioner Munro and seconded by Commissioner Rigdon, Public Notice of Intent 3806 (Rehab of white tailed deer) was unanimously approved as presented.

☐Public Notice W 15-3434 (White-tailed deer seasons & Bag Limits) (**INTENT**)

Second intent. Changes back to primitive.

ACTION: Upon motion made by Commissioner Munro and seconded by Commissioner Rigdon, Public Notice of Intent W15-3434 was unanimously approved as presented.

☐Public Notice LE3-3779 (Nuisance Animals)

Chief Castle advised there is an amendment to LE3-3779 to include the following language:

"Wild hogs may be hunted, taken, killed, chased or pursued on private lands during daylight and nighttime hours throughout the year with no firearm restrictions. Wild hogs may also be hunted, taken, killed, chased or pursued, with dogs, except during the spring turkey season. Wild hogs may be hunted with the aid of feed/bait with the following exceptions: Any food or food products, except whole grains, chopped or ground-up grains, may be placed upon the ground, above the ground, in any type container year round for the purpose of hunting wild hogs only. Grain or grain products may be used, if placed inside any legally designed live capture type trapping device for the sole purpose of trapping wild hogs."

ACTION: Upon motion made by Commissioner Munro and seconded by Commissioner Deviney, Public Notice of Intent LE3-3779 (Nuisance Animals) was unanimously approved as presented.

☐The Pascagoula School District Family Interactive Center

Mr. Justin Thayer presented a Power Point Presentation with information regarding the Pascagoula School District Family Interactive Center in Pascagoula, MS.

ACTION: None. Information purposes only.

8. Law Enforcement - Hunting Accident Request

Chief Steve Adcock stated that by law the Commission may refer any hunting incident to a district attorney for presentation to a grand jury, for possible prosecution of criminal activity. Law Enforcement is requesting Commission approval to refer a Harrison County matter, to the District Attorney.

ACTION: Upon motion made by Commissioner Rigdon and seconded by Commissioner Munro, it was unanimously approved to refer the file to the District Attorney in Harrison County, Mississippi as requested.

9. Other Business - ☐Request for special use of Wildlife Heritage Funds (See memo.)

Ms. Libby Hartfield presented a request to use \$9,600 from the Wildlife Heritage Fund in order to hire a GIS Specialist at the Museum. This would leave a balance of \$48,335.50 in the fund.

ACTION: Upon motion made by Commissioner Deviney and seconded by Commissioner Munro, it was unanimously approved to use \$9,600 from the Wildlife Heritage Fund as requested.

10. Next Meeting Dates (Confirmed) Tuesday, June 22, 2010 @ 2:00 p.m. – Waveland, MS
(Tentative) Thursday, July 22, 2010 – Jackson, MS
11. Executive Session

Upon motion made by Commissioner Deviney and seconded by Commissioner Munro, the Commission voted unanimously to close the meeting to determine the need for an Executive Session. It was determined that discussions related to transactions in real property were needed. Upon motion made by Commissioner Deviney and seconded by Commissioner Rigdon, the Commission voted unanimously to enter Executive Session.

Don Brazil presented a request for the following:

- a. Stone County Property – Two appraisals were performed and the average of the two exceeds the asking price. Staff recommends offering to purchase at the asking price.

ACTION: Upon motion made by Commissioner Deviney and seconded by Commissioner Stanley, it was unanimously agreed to offer to purchase the property at the asking price.

- b. ATCO-Chotard Property – Two appraisals have been completed to determine the fair market value. Staff recommends offering the fair market value price for the purchase.

ACTION: Upon motion made by Commissioner Deviney and seconded by Commissioner Munro, it was unanimously agreed to offer the fair market value price for the ATCO-Chotard property. The Commission also directed that a letter of appreciation be sent to the seller.

- c. Tuscumbia WMA, Alcorn County – Two appraisals were obtained. The appraisals have been averaged to determine fair market value for a tract adjacent to the WMA.

ACTION: Upon motion made by Commissioner Rigdon and seconded by Commissioner Munro, it was unanimously agreed to offer the fair market value price for the Tuscumbia, Alcorn County property.

- d. Approximately two (2) acres at the Tuscumbia WMA for exchange with adjacent landowner:

The Commission directed that the properties be appraised to determine that any exchange will be an exchange for equal value, pursuant to the authority to consolidate lands under the Commission's jurisdiction, in Miss. Code Ann. §49-1-29(d).

In closing Executive Session, the Commission requested staff supply detailed points concerning the Parks budget and any other budget matters.

ACTION: There being no further business for Executive Session, Commissioner Deviney made a motion, seconded by Commissioner Rigdon, to come out of Executive Session and re-open the meeting. The vote was unanimous. The meeting was re-opened.

There being no further business to discuss, Chairman Jones gaveled the meeting into adjournment.


BRYAN JONES, CHAIRMAN

Date 6/22/10


CHARLES RIGDON, VICE-CHAIRMAN

Date 6/22/10

WMA SUMMARY OF CHANGES

WMA	CHANGE AND REASON			
Hell Creek	Quail - Training Only Feb. 21 28 – Mar. 11			
	<ul style="list-style-type: none">Avoid conflict with special event (field trial) dates			
	Archery/Youth Gun Jan. 15 Jan. 28 Jan. 22 – Feb. 3			
	<ul style="list-style-type: none">Avoid conflict with Quail Training dates			
	Quail - Training Only Feb. 9-13			
	<ul style="list-style-type: none">Delete due to conflict with special event (field trial) dates			
Black Prairie	Typo: change trails to trials under “Special Events”			
Trim Cane	Typo: change 2009-10 to 2010-11 under “Waterfowl”			
Malmaison, Sandy Creek, Sunflower, Tallahala, Upper Sardis, Yockanookany	BAG LIMITS: Same as statewide bag limits– Except that for permitted turkey hunts the daily bag limit is one gobbler per permit.			
	<ul style="list-style-type: none">Inadvertently omitted from intent. Will standardize with wording on other comparable areas.			
Chickasawhay	DEER DATA COLLECTION: All deer harvested on Thursdays, Fridays, and Saturdays must be checked at the WMA headquarters by the hunter who harvested them before leaving the WMA. On other days, All deer harvested must be checked at the self-service data collection station (see map) by the hunter who harvested them before leaving the WMA.			
	<ul style="list-style-type: none">Removes requirement of having a person at headquarters all day three days a week in case someone comes by with a deer. A manager can still assist hunters at the self-service station at peak times on high pressure days.			
Malmaison	Gun	Nov. 20	Nov. 30 Dec. 1	Does only.
	Primitive Weapon	Dec. 12	Dec. 14 15	Does and legal bucks.
	Gun	Dec. 15 16	Dec. 22 23	Legal bucks by special permit and Does.
	Gun	Dec. 23 24	Jan. 19	Does and legal bucks.
		<ul style="list-style-type: none">Error from adjusting calendar dates one day from year to year.		

BEFORE THE MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY

IN RE: Formal Evidentiary Hearing Regarding The Designation Of The Tippo Bayou Waterway, Including McIntyre Scatters, As A Public Waterway Pursuant To Miss. Code Ann. § 51-1-4 (Rev. 1999)

May Edwards (Charger) opposed to Brown Hunt

ORDER NO. **3937** **99**

ORDER

I. Introduction And Procedural History.

1. Miss. Code Ann. § 51-1-4 (Rev. 1999) requires the Mississippi Department of Environmental Quality to designate and to keep maps indicating a list of waterways in the state that are designated as public waterways under the criteria set forth in that statute. The statute, as last amended in 1994, states:

Such portions of all natural flowing streams in this state having a mean annual flow of not less than one hundred (100) cubic feet per second, as determined and designated on appropriate maps by the Mississippi Department of Environmental Quality, shall be public waterways of the state on which the citizens of this state and other states shall have the right of free transport in the stream and its bed and the right to fish and engage in water sports.

In 1990 the Commission designated the Tippo Bayou Waterway as a public waterway under this standard, included the Tippo Bayou Waterway on its public waterways list, and defined the public portion of this waterway as beginning at the confluence of Tippo Bayou and Ascalmore Creek, in Section 36, T22N, R1E, Tallahatchie County and ending at the confluence of Little Tippo Bayou and the Yalobusha River (USGS Avalon quadrangle, Section 32, T21N, R2E,

EXHIBIT

EDWARDS

"5"

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Leflore County).

2. In 1994, the Commission changed the termination point of the Tippo Bayou Waterway to the intersection of Money Bayou and the Tallahatchie River (USGS Money quadrangle, Section 29, T21N, R1E, Leflore County).

3. In 1995, the Commission clarified the list of water bodies by further defining the Tippo Bayou Waterway to include the following bodies of water: Six Mile Lake, McIntyre Lake, Little Tippo Bayou, and McIntyre Scatters. The Commission also changed the termination point back to the Yalobusha.

4. Thereafter, this 1995 action of the Commission was stayed by Commission Order No. 3153-95, issued on November 22, 1995.

5. The Leflore County Hunting and Fishing Association ("LCHFA") and individual petitioners, including Delbert Hosemann of Jackson, requested a formal evidentiary hearing before the Commission concerning the designation of McIntyre Scatters as a part of the Tippo Bayou Waterway. The Commission conducted that hearing on November 10, 1999. Max Edwards of Tupelo also participated as a party to the evidentiary hearing.

6. Prior to the evidentiary hearing, each party submitted direct testimony in the form of affidavits and exhibits. During the hearing, each party was allowed to make an opening statement, to cross-examine the witnesses who had submitted affidavits, and to make a closing statement. The proceeding was recorded by a court reporter, and the transcript will be placed in the MDEQ public record file in this matter.

II. Decision of the Commission.

7. McIntyre Scatters is a swamp area that is sometimes divided (completely or largely) into two portions, a western portion and an eastern portion. Although the area north of McIntyre Scatters lying between the Tallahatchie and Yalobusha Rivers drains a land area that MDEQ Staff believes results in a flow through this system of lakes and bayous in excess of 100 cubic feet per second ("cfs"), MDEQ Staff has been unable on several attempts to measure an actual flow between Six Mile Lake and McIntyre Scatters or within McIntyre Scatters itself.

8. Evidence presented to the Commission through this proceeding indicates that, although water levels in the McIntyre Scatters fluctuate during the year and from year to year, and flooding does occur from time to time in the area, a flow does often exist through a stream or channel designated in the survey of Robert Montgomery, submitted as Exhibit 31 to the affidavits submitted by LCHFA. The uniqueness of the McIntyre Scatters hydrological situation leads to significant difficulty in establishing (i) the continuance or amount of flow from one part of this waterway system into or through another part of the waterway, (ii) the location of the stream bed in certain places within the waterway system, and (iii) the boundary between nonflood waters that would otherwise fall within a designation as "public" under section 51-1-4 and flood waters that are excerpted from section 51-1-4.

9. The balance of the evidence and proof presented in this matter demonstrates that regarding McIntyre Scatters, only a stream through the western portion of the Scatters, allowing public transport from Six Mile Lake to McIntyre Lake, should be designated "public" under 51-1-4. Furthermore, the outlet of the waterway from McIntyre Lake to the Yalobusha River should be designated as the most direct route from the southern end of McIntyre Lake to Little Tippo

Bayou, and thence to the Yalobusha River.

10. The Commission's authority and duty in this matter extends only to the designation of public waterways under the criteria of section 51-1-4; therefore, the Commission makes no determination of issues beyond its authority or jurisdiction in this matter.

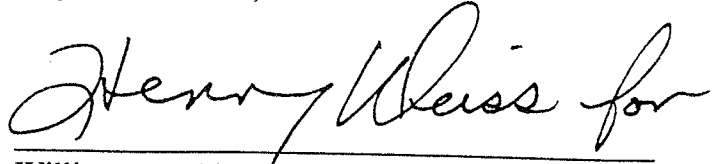
WHEREFORE, PREMISES CONSIDERED, the Commission finds and directs as follows:

The Mississippi Public Waterways List adopted by the Commission on October 26, 1995 and subsequently stayed by Commission Order No. 3153-95, issued on November 22, 1995, shall be the Mississippi Public Waterways List, except that the description of the Tippo Bayou Waterway shall be amended to state that the Waterway, as it extends between Six Mile Lake and McIntyre Lake, is located only in Sections 15 and 16, T21N, R1E, Leflore County, and is further designated as extending 37 ½ feet each side of the center line of the channel demarcated by a survey completed by Robert Montgomery in 1999 and previously filed as an exhibit in this matter. Both the list and the survey shall be made available to the public upon request pursuant to the Mississippi Public Records Act.

Furthermore, the outlet of the waterway from McIntyre Lake to the Yalobusha River is designated as the most direct route from the southern end of McIntyre Lake to Little Tippo Bayou, and thence to the Yalobusha River. The public waterways designation shall be annotated to describe these limitations to the

inclusion of the intermediate water bodies within the Tippo Bayou Waterway.

SO ORDERED, this the 18th day of November, 1999.

A handwritten signature in cursive script that reads "Henry Weiss for". The signature is written in black ink and is positioned above a horizontal line.

William B. Whitfield

Chairman

Mississippi Commission on Environmental Quality

Memo:

To: Don Brazil, Executive Committee

From: Libby Hartfield, Sherry Surette

Date: 5/10/2010

Subject: Heritage Fund Request for GIS Specialist Services

The Natural Heritage Program is requesting \$9,600 from the Heritage Fund to hire a GIS Specialist during the months of May and June. This GIS specialist will complete habitat reclassification analyses and produce high quality maps of locations of animals and habitats in need of conservation in Mississippi. This work is needed to revise the state's Comprehensive Wildlife Conservation Strategy. The Natural Heritage Program deposits funds acquired from environmental review fees into the Heritage Fund on a monthly basis and has a current balance of \$48,335.50.

Thank you,

Libby Hartfield