

MISSISSIPPI COMMISSION ON WILDLIFE, FISHERIES, & PARKS

Wednesday, January 19, 2022

No Educational Session 11 AM Business Session

**The Lyric Hotel – Clubhouse C & D
1300 Highway 8 West, Cleveland, MS 38732**

2:00 PM

BUSINESS SESSION MINUTES

PRESENT: Commission Chairman William Mounger, Commissioners Scott Coopwood, Bill F. Cossar, Leonard Bentz, and Gary Rhoads.

Among the MDWFP staff attending were Dr. Sam Polles, Executive Director; Larry Pugh, Col. Jerry Carter, Russ Walsh, Angel Rohnke, Jerry Brown, Jason Thompson, Doug Mann, and Drew Malone, Special Assistant Attorney General. Chairman welcomed former Commissioner Billy Deviney and visitors.

OPENING PRAYER

Jason Thompson, License/Boat Registration Division Director, opened the meeting with prayer.

MINUTES

ACTION: Upon motion by Commissioner Bentz and seconded by Commissioner Cossar, the Commission meeting minutes of December 16, 2021 and January 4, 2022 were unanimously approved.

AGENDA

Chairman Mounger decided to move the Public Comments after Law Enforcement and the Commission unanimously approved the amended agenda.

LICENSE SALES REPORT

Jason Thompson, License/Boat Registration Division Director, presented the License Sales Report for the month of December 2021. The total revenue for the end of December is about the same as it was last year at this time.

Highlights of his report are listed below:

- Resident license sales – down 2%
- Res WMA User Permits – up 3%
- Res Senior Exempt Lifetime – up 9%
- Res Apprentice All Game – up 9%
- Non-resident license sales – up 2%
- NR All Game Hunting – up 3%
- NR 3-day Freshwater – up 2%
- NR Freshwater Fishing – up 3%
- Other Licenses – down 1%
- Lifetime License category – down 11%

Autorenewal customers are still increasing each month with FY21 totaling 61,224 customers. License packages sold from July 1, 2021 to December 30, 2021 equaled 21,250. Resident Duck Stamps sold are around 25,000. Non-residents Duck Stamps sold are around 7,000.

WILDLIFE

Youth Squirrel Hunts & Youth Waterfowl Camp

Russ Walsh, Wildlife Chief of Staff, informed the Commission that each year MDWFP holds several Youth Squirrel Hunts and a Youth Waterfowl Camp at Muscadine Farms. Both events are scheduled for February.

2021 Wildlife Bureau Biologist and Manager of the Year Awards

Awards were presented by Walsh to two members of the Wildlife Bureau for outstanding service to the agency, as well as, managing natural resources for the state.

The first award for WMA Manager of the Year was given to Mark Yarborough, Manager for Charles Ray Nix WMA.

The next award for Wildlife Biologist of the Year was given to Justin Hughes. Hughes was unable to attend the meeting and will receive his award at a later date.

Applause followed.

CWD Update

Walsh informed the Commission that over 4,000 deer samples have been collected with 38 new CWD positive results during this sample season which began July 1, 2021. An additional county

received two CWD positive test results; namely, Warren County. Other CWD test results from the same area in Warren County are pending. Alabama recently had their first CWD positive test result in Lauderdale County, located in northwest Alabama.

Waterfowl Survey Update

Darrin Hardesty, Waterfowl Program Biologist, stated that they are currently finishing up the late winter waterfowl survey. The current numbers are above the December survey but below the long-time average. The warm weather patterns have kept waterfowl away from Mississippi. He remained optimistic that the waterfowl numbers would be returning with some anticipated colder weather. Some of the other states, such as Illinois, are starting to see some waterfowl.

Turkey Summit

Chairman Mounger announced that there will be a Wild Turkey Summit on February 24, 2022. The location will be announced at a later date. This summit will provide feedback from hunters all over the state, as well as, biologists. This summit will provide insights on how to better protect the wild turkey and what other states are doing. Adam Butler, Waterfowl Coordinator, will be hosting the event.

FISHERIES

PROPOSED – 40 Miss. Admin. Code Part 3, Chapter 3 –Regulations Regarding Commercial Fishing

- **Rule 3.1 Regulations regarding Commercial Fishing**

Jerry Brown, Director of Fisheries Bureau, presented the following changes to regulations regarding commercial fishing:

E: Commercial gear tagging requirements:

- *E3: Requires a LA or AR non-resident commercial fishing license number for gear fished on the MS side of border waters*
- *E6: Requires a LA or AR non-resident commercial fishing license number for gear fished on the MS side of border waters*
- *E7: Requires a LA or AR non-resident commercial fishing license number on crawfish and freshwater shrimp traps fished on the MS side of border waters*

G: Harvest size and possession restrictions; boat

- *G5: Added alligator gar creel limit (2 per person per day)*
- *G10: Clarifies that the sell of paddlefish parts (eggs, flesh) is illegal*
- *G12: Removes alligator gar quota and tagging requirements*

H: Areas closed to commercial fishing equipment:

- *H1U: Adds that no commercial fishing equipment can be fished in National Forests in MS*

J: Special permit:

- *J2: Requires special permits to be carried by the fisherman when fishing*
- *J3a: Extends the commercial fishing season at Moon Lake from March 30 to April 30*

ACTION: Commissioner Coopwood moved to approve PROPOSED Rule 3.1 Regulations regarding Commercial Fishing as recommended by staff. Commissioner Cossar seconded the motion and the motion carried.

LAW ENFORCEMENT

Law Enforcement Update

Col. Jerry Carter, Chief of Law Enforcement, reported 1,029 citations issued for the month of December with "No License" being number one and "Trespassing" was number two. For the month of December there were a total of 63 headlighting cases made across the state.

Since the opening weekend of waterfowl season officers have conducted compliance details at Malmaison Scatters. Total number of hunters encountered (587); Total work hours (452); citations issued (101); Warnings issued (25). Most of the citations issued were for "No License".

All 21 cadets have now completed their 10-week training at MCOTA. Non-sworn officers have now reported to MLEOTA for basic training. Prior sworn cadets have reported to their region for assignments.

The McHenry Sporting Clay Trail Project is still underway. The entire trail is almost to grade and compaction. The core ditch is 20% complete for the one levee. Drainage pipes are in place and 30% of the shooting stations are complete.

Shooting range customer counts are: McIvor – 370; Turcotte – 804; and McHenry – 509.

PUBLIC COMMENTS

Flooding and Public Waterways

Lt. Col. Scottie Jones, Assistant Chief of Law Enforcement, spoke on the topic of "Public Waterways" to refresh the memories of everyone on the Mississippi Code. He was addressing the Commission, staff, and public who were present at the meeting.

What is a Public Water?

All the water in the state, except for that in private lakes and ponds, belongs to the State of Mississippi. **Miss. Code Ann. §51-3-1**

All oxbow lakes are public and can be accessed without trespassing either by using a public boat ramp or a fee ramp, or with permission from an adjacent landowner to use their property to access the water body. The public cannot trespass to use oxbow lakes. **MS Supreme Court, Dycus v. Sillers, 557 So.2d 486 (Miss. 1990)**

What is a Public Waterway?

Public waterways, as defined in law by MDEQ, gives the public the right of free transport in a stream, and the right to fish and engage in water sports. **Miss. Code §51-1-4**

Hunters and anglers have the right to utilize the water surface on any public waterway and this would include the right to float freely on, anchor to beds of the waterway, and wade. **Attorney General Op. #93-0836, Dec. 6 1993**

The public can use waters which are connected to a Public Waterway when the waterway is at NORMAL flow or water level; the public CANNOT use FLOODWATERS to access private property. **Miss. Code Ann. §51-1-4**

Floodwaters which have overflowed the natural banks of a Public Waterway are not part of the Public Waterway. The public cannot use such floodwaters without the permission of the landowner whose land is flooded. **Miss. Code Ann. §51-1-4(3)**

Lt. Col. Jones emphasized that if a boat is in the timber area which is outside the banks of the natural waterway, then the people in the boat are trespassing and will be given a ticket by an officer. The landowner also has the right, with documentation, to take that person to court and file an affidavit.

Rives Neblett, representing Smith Point Hunting Club – Lt. Col. Jones answered a lot of his questions and he thanked MDWFP for their management of the state's WMAs. A lot of the interpretation of the law has been exasperated by floodwaters that stay too long. From the standpoint of changes that need to be made, he understood that the legislative branches are the beginning point for change.

Pete Fulgham – In 1993, Dr. Polles asked for the Attorney General's Opinion on this issue. His understanding was that anything below flood stage (which we interpreted the annual high-water mark as flood stage) and anything under that mark is considered navigable water. Fulgham had never heard of vegetation being a gauge for flood stage and requested more information on this.

Rives Neblett – Neblett responded that flood stage is not the determining factor and a lot has changed since 1993. It is important that everyone understands where the natural waterway is and that vegetation sets the stage for natural waterway path.

Chairman Mounger – Mounger informed everyone of a big lawsuit against the Corps of Engineers alleging that recent flooding in the Mississippi River basin could have been avoided with better management by the Corps.

Enclosures

Billy Deviney – A law was passed by the Legislature concerning Enclosures in 2019 which generated Deviney's interest. Since that time Deviney has put together an organization for owners of enclosures called the Private Landowners Association of Mississippi. He stated that there are only 114 High fences and 4 breeder pens in Mississippi. He reviewed several surrounding states and found that Alabama has 210 breeder pens and Louisiana 300; while Mississippi only has four. In 2021 enclosure owners were required to sample every deer put down and not a single deer was infected with CWD. This indicates that Mississippi enclosures are doing something right.

In Deviney's quest for answers he hired several attorneys to learn why there are laws just for enclosures. He acknowledged that proper care must be taken in enclosures to safeguard the deer, such as, if they are not fed properly or if the water supply dries up, the deer are going to die. So, he acknowledged that laws are needed to protect the deer and to regulate.

Deviney stated that it had taken many years for him to grow a superior deer. It is a big challenge and members of the Private Landowners Association would like to be able to sell these superior deer and move them to other high fence areas that are qualified. Deviney and his attorneys have been looking at the law and believe that the Commission has the authority to authorize the sale of deer bred inside an enclosure. This would not apply to wild deer. His attorneys put together a letter requesting an Attorney General's Opinion. Deviney handed this letter out to the Commission and staff. He requested that the Commission review this letter and send in a request to the Attorney General within a week.

ACTION: Commissioner Bentz made a motion to send Deviney's letter to the Attorney General's Office for an Opinion. Commissioner Rhoads seconded the motion and the motion carried.

Discussion followed and it was noted that the attorneys for the Commission had not had a chance to read through Deviney's letter before the meeting.

Commissioner Bentz made a clarification of his motion:

- If there are any changes, which are in agreement with attorneys on both sides (*Commission and Deviney*), then this letter can be changed before it is submitted to the Attorney General's Office. If there are any changes after submittal, Deviney's attorneys can give these changes to the Attorney General's Office before an Opinion is rendered.

OTHER BUSINESS

Larry Pugh, Director of Technical Services, presented a Legislative Update. We are watching around 100 bills with 27 in the House and Senate Wildlife, Fisheries, and Parks Committees. A couple of bills are repeat bills from the last several years. Some other bills have been dedicated to making changes in State Parks. There are also House and Senate versions of Dedicated Conservation Funding. February 1 is the deadline for bills to come out of Committee. The staff will be meeting next week with both House and Senate Committees. The Commission will start receiving Legislative Bullets the first of February explaining the content of each bill of interest.

Upcoming events are:

January 27 – Hosting the WFP House and Senate Committees for lunch at Turcotte
February 10 – Foundation Car Tag Auction at the Trademart
February 11 – 12 – MDWFP Spring Expo at the Trademart
February 16 – 20 – NWTF Convention – Nashville - MDWFP receiving an award
February 16 – Hosting the Legislative Sportsmen's Caucus for lunch.
February 24 – Wild Turkey Summit (location TBA)

NEXT MEETING DATE

Date: Monday, February 21, 2022 (President's Day Holiday)
Location: Quail Ridge Conference Center, Louisville
Time: 9:00 a.m. Business Session

EXECUTIVE SESSION

The Executive Director stated that there was no need for Executive Session.

ADJOURNMENT

There being no further business before the Commission, Commissioner Bentz moved to adjourn, seconded by Commissioner Coopwood, and the motion carried. Chairman Mounger gaveled the meeting into adjournment.


Billy Mounger, CHAIRMAN

2/21/22
Date


Bill Cossar, VICE CHAIRMAN

2/21/22
Date