

LOUISIANA COASTAL LAW

Coastal zone
management
in Louisiana

Office of Sea Grant Development * LSU Law Center * Editor: Marc J. Hershman * (504) 388.5931

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NEW SHRIMP MANAGEMENT LAW PROPOSED

Biology and economics are recommended as the primary factors in shrimp management policies in a newly completed study of the L.S.U. Sea Grant Legal Program. The objective of the study, performed by H. Gary Knight, Program Coordinator, and Robert J. Prejeant, a senior law student at L.S.U., was to determine whether a revision of the Louisiana laws affecting the taking of shrimp could aid in securing the best economic return from the state's shrimp resources.

Two basic findings motivated the recommendations made in the study: (1) that as a result of intra-industry compromises and piecemeal law revisions in the past, there seemed to exist no clear standards for resource management; and (2) that enforcement of existing laws has been relatively ineffective.

To remedy this situation, the report contains the following basic recommendations:

- (1) Create a position of Chief Marine Biologist ("CMB") for the Louisiana Wildlife and Fisheries Commission ("LWFC").
- (2) The CMB of the LWFC is to have complete discretion, without any date limitations, to open and close seasons in all or part of Louisiana waters for any type of shrimp. The study concluded that sound resource management techniques required maximum flexibility to deal with varying biologic, climatic, and other factors which affect shrimp distribution and size. It was also concluded that greater flexibility in the setting of seasons would ensure that shrimp were permitted to attain a size sufficient to ensure the best economic return.
- (3) The CMB will also have power to recommend to the LWFC creation of sanctuary areas in which no shrimping will be allowed. The purpose of this recommendation is to protect young shrimp and permit them to grow to a size sufficient to ensure the best economic return.
- (4) Statutory criteria are to be established to guide the CMB and the LWFC in the setting of seasons, the delimitation of sanctuary areas, and other tasks, such criteria to consist primarily of ensuring optimization of sustained biologic yield and economic return from the resource. Although provision was made in the proposed legislation for the use of other criteria generally recognized in fisheries resource management, it was felt that economics and biology should play the primary role in determining management policies.
- (5) Louisiana waters are to be defined as all waters landward of

the three mile limit. The LWFC would have the power to include the entire area in its closed seasons, though the study recommends that this be done only on the basis of sound biologic/economic information. The primary objective of permitting the present "inside-outside" line to be moved offshore (perhaps 500 or 1000 yards) is to make enforcement against violators easier for LWFC officials.

(6) A licensing procedure is to be established for boats and nets, and the LWFC is, through an administrative hearing procedure, to have the power to revoke licenses for violations of the shrimp laws. District courts would still have jurisdiction over unlicensed shrimp boats and nets, but the burden of proof will be considerably eased since trials will boil down essentially to whether or not the offending vessel was licensed or not. The authors of the study conclude that with a flexible, rational management system based on ensuring the best total weight and dollar return from the State's shrimp resources, and with an effective, easily administered enforcement system, everyone involved in the shrimp industry -- from the shrimpers to the ultimate consumers -- will benefit.

Copies of the report have been mailed to members of the Louisiana Legislature serving on the House and Senate Natural Resources Committees as well as those legislators from coastal parishes; LWFC officials; members of the La. Shrimp Association; and others. Anyone not receiving and desiring a copy should write to H. Gary Knight, LSU Law Center, Baton Rouge, LA 70803.

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PREVIEW OF CONCEPTS EMERGING from the Louisiana Advisory Commission on Coastal and Marine Resources (LACCMR) was set forth in a recent address before the Louisiana Joint Legislative Committee on Environmental Quality, by Marc J. Hershman, Executive Director of the LACCMR outlined the coastal zone problems the Commission is addressing and the scope of the recommendations the Commission will present.

Concepts being considered include:

- Defining environmental management areas within the State's coastal zone including such geographic features as corridors which transect the zone, flood plains and low-lying marshes and swamps. Once delineated these environmental management units would provide a framework for planning future use of the coastal zone.
- Limiting heavy land-use for industry, commerce, residential and transportation development to corridors and other suitable areas.
- Using the best engineering devices in weirs, dams and water control structures to enhance biological productivity.
- Expanding programs for monitoring and maintaining water control and erosion control structures built in the marsh.
- Encouraging the diverting of Mississippi River water for delta building and fresh water introduction into estuaries.
- Expanding recreation-tourism programs for coastal Louisiana.
- Encouraging mariculture in the coastal zone.
- Reviewing the potential multiple uses of pipeline canals.
- Establishing a special, well-funded research and education program to address coastal and marine affairs including a marine laboratory available to all state universities.
- Establishing a technique or procedure by which the cumulative impact of many small, diverse and unconnected projects can be assessed.
- Including the cost of undisturbed wetlands in the cost-benefit analysis for all public work projects.

With regard to the type of managing body and the scope of authority necessary to implement a coastal zone management program, the following concepts are being discussed:

--Current state-level controls over dredge and fill operations in the coastal zone are ill-defined and insufficient. A strong surveillance programs should be adopted so that all regulations for controlling dredging are tightly enforced. Strict engineering requirements on all marsh disturbance activities should be enforced so erosion and salt water intrusion are limited to the greatest extent possible. Performance bonds and strong penalty provisions for a failure to adhere to the regulations should be adopted.

--Review of major waterway projects where canals of substantial depth and width are dredged in the coastal marshlands must be included in the powers of any coastal zone managing authority. The review should include commenting upon scientific and technical data presented by proponents and opponents, assisting interested persons who wish to stay informed of developments in the project, presenting technical information in a manner which can be understood and analyzing whether the navigation project conforms to the coastal zone management plan administered by the managing authority.

--An active, well-funded and fully viable coastal zone management agency is essential. The Commission is not, at this time, suggesting it should be a totally independent agency, a division of another major agency or some sort of interagency group. Coastal zone management must be practiced by many agencies -- including transportation, promotional and service agencies. Coastal zone management pervades activities of many departments of government and is therefore a "program" of the state rather than any particular single agency function.

Hershman also recommended that Louisiana take full advantage of the federal coastal zone management program. A coastal zone management program becomes the State's expression of how it wishes to use its coastal area. Other large federal agencies, such as the Corps of Engineers, would have to abide by the State's plan. Without such a plan Louisiana might be forced into a position of allowing federal agencies to do the planning and managing of the State's coastal zone.

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GOVERNOR EDWARDS TOOK AN IMPORTANT FIRST STEP in securing a Federal Planning Grant for Louisiana's coastal zone management program.

He designated the State Planning Office as the single agency to receive and administer the grants for development and implementation of a coastal zone management plan.

They will be assisted by the Louisiana Advisory Commission on Coastal and Marine Resources, the Louisiana State University Sea Grant Program and the Louisiana Wildlife and Fisheries Commission. This provides Louisiana's program the interest group representation, state agency expertise and University research abilities necessary to assist in developing the required management plan under P.L. 92-583.

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CC-73 (LOUISIANA CONSTITUTIONAL CONVENTION OF 1973) has begun dissecting and analyzing the longest and most cumbersome constitution in the nation. LCL will stay close to the Natural Resources and Environmental Committee - th 18 member group studying the future constitutional principles of resource management policies.

The Resources Committee will review public lands and minerals, water resources, wildlife, environmental and recreational concerns, agriculture and other topics. State agency officials, interest group heads, and citizens are stating their views before the Committee. The professional staff is swamped with ideas and arguments about what the new constitution should include.

Whether state owned waterbottoms can be reclaimed and sold to private individuals is an issue facing this Committee. The current constitution permits such activities (see LCL No. 4 discussing this problem in detail). In a recent talk before that committee, LCL editor Marc J. Hershman proposed that state owned waterbottoms be permitted to be reclaimed only as public projects done strictly for public purposes, not for purposes of sale to private individuals. In amplifying his remarks, Hershman further developed the idea of a "resource management policy". Such a policy would recognize that resources are finite and scarce and that the interest of future generations must be considered in current resource management policy. He felt that any one resource use should be compatible with all other uses and not detract from a policy of preserving resources for future generations. He stressed that the environmental factors which sustain the renewability of a resource should be protected to the maximum extent possible. Hershman also suggested that conservation agencies, those primarily concerned with preserving or protecting the environment, be separated administratively from the exploitation and promotion agencies, those whose mission is to exploit and extract resources. In effect, he suggested a checks and balances system between conservation and exploitation agencies similar to the checks and balances between executive, legislative and judicial branches of government.

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