Development of the CPRA Oyster Lease Acquisition and Compensation Program (OLACP) – From Litigation to Legislation

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Presentation Overview

- Oyster Leasing 101
- Caenarvon Litigation
- Impact of Litigation on Oyster Leasing
- Davis Pond Relocation Program
- OLRA (1st program)
- OLACP (Current Program)
- Future Legislative Efforts
Oyster Leasing 101

- Overharvesting prior to 1900
- State Oyster Commission (LDWF) 1902
- LA - Private leases and Public grounds
- 15 year term - Transferrable, Heritable
- Cannot be terminated
- $2/acre/year plus survey
- $0.025/brl private, $0.03/brl public
Caernarvon Litigation

- Completed 1991, freshet
- Avenal suit filed March 1994, 25th JDC
- Feds Dismissed Case, Local Court OK
- Trial award, $21,345/acre; @$1.3 B
- Alonzo, 53 leaseholders, $292 M
- 3rd group, Lake Borgne, $1 B
- Total Judgments $2.5 Billion by 2002
Impact of Litigation on Leasing

- 2002 Oyster Lease Moratorium
- Non-Renewal within operational zone
- 1 year Operational Leases east of river
- 1 to 14 year “”Bobtail” leases
- Restricted Area Map Process (RAM)
2004 Restricted Areas Associated with Current Coastal Wetland Restoration Projects and Louisiana Department of Wildlife and Fisheries Active Oyster Leases
Davis Pond Relocation Program

- 1997, La. R.S. 56:432.1
- Federal Uniform Relocation Act
- Allocated $7.5 M, Spent $4.5 M
- Based on side scan, “cultch currency”
- Had relocation option, no takers
- $19M for ‘Barataria Cumulative”
- USACE NOD – no future LEERD credit
Oyster Lease Relocation and Acquisition Program (OLRA)

- Emergency Rule – April 2003
- Voluntary Program
- No recourse for non participation
- Based on “market” value
- Compensated for standing crop
- Applied only to CWPPRA
- Successful - Limited due to uncertainty
Need for Certainty

- ORLA successful but not certain
- Projects w/ leases uncertain (USACE)
- October 2004 LASC reverses Avenal and Vacates Judgments
- November 2004 OLRA is suspended
- Current negotiations allowed to finish
- Monday August 29th, 2005
Hurricane Katrina
Avenal Decision Clears the Way

- Historic salinities varied
- “Hold Harmless” clause upheld
- Coastal Restoration priority
- Claimants prescribed out
- Judgments vacated, Case dismissed
Oyster Lease Acquisition and Compensation Program (OLACP)

- December 2005 DNR engages outside counsel to assist drafting legislation
- DNR engages GOCA, CPRA & OTF
- HB 1425 by Rep. Kenneth Odinet
- Passes and becomes Act 425
- DNR Begins Rule making in July 2006
- Rule finalized November 2006 (APA)
OLACP Program Accomplishments

- Lifted DNR’s Objection to Moratorium
- Abolished the Restricted Area Map
- Re-established 15 year lease terms
- Established Fair Market Value
- Allowed for “Quick Take”
- Applies to any Protection or Restoration
- Future suits to be brought in 19th JDC
Next Legislative Efforts

- Allow for Retention vs Acquisition
- First right of refusal for releasing
- Re-evaluation of lease fee (new leases)
- Re-evaluation of State ownership
- Deep Water Horizon claims
Thank You!

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