

SOUTH CAROLINA WILDLIFE AND MARINE RESOURCES
COMMISSION MEETING

House Agriculture & Natural Resources
Committee Room
Columbia, S. C.
August 26, 1980

The regular monthly meeting of the South Carolina Wildlife and Marine Resources Commission was held in the House Agriculture and Natural Resources Committee Room in the Blatt Building in Columbia, S. C., at 10:00 a. m., August 26, 1980, with Chairman Edens presiding. Notice of the date, time and place of the meeting was mailed to the state's media. Commissioners present at the meeting included Commissioners Edens, Compton, Shuler, Stubbs, Dawson, Owen, Bennett, and Harrelson. Commissioner Dennis arrived at the meeting about 12:00 noon. Directors and staff members present included Dr. Timmerman, Larry Cartee, Mike Creel, Mac Flood, Tommy Edwards, Dan Dobbins, Gene Smoak, Brock Conrad, Tommy Strange, A. S. Lachicotte, Dr. Joseph, Benny Reeves, Tom Kohlsaas, John Evans, David Cupka, Charles Bearden, Jeff Fuller, Carole Hedrick Collins, Dennis Gunter, Sonny Baines, Ed Duncan, Joe Logan, Julie Lumpkin and Bill Chastain. Guests at the meeting included Mr. Fred Felder, Coy Johnston and Marvin Davant of Ducks Unlimited, Pat Robertson of the "Columbia Record", Roy Smith, Jr. of Ridgeland, Ben Gregg and Patricia German of the Governor's Office, Mary Bryan of the Natural Resources Defense Council, Betty Spence and Dr. Jackie Jacobs of the S. C. Wildlife Federation, H. H. Von Harten, Jr. of Beaufort, Bob Lumpkin of Georgetown, Ken Kinard of the House Agriculture and Natural Resources Committee, Frank Caggiano of the Senate Research Office and Bill Jordan of the Senate Finance Committee.

CALL TO ORDER

Chairman Edens called the meeting to order at 10:00 a. m. and introduced all guests at the meeting.

ITEM I. READING OF THE MINUTES

Commissioner Compton moved to dispense with the reading of the Minutes of the July 18, 1980 meeting and approve them as submitted. Commissioner Owen seconded the motion and it was adopted by the Commission.

ITEM II. COMMENTS

Dr. Timmerman noted that the Commission was polled and agreed to keep the sounds and bays closed rather than opening on August 15th. All legal procedures regarding this matter were followed and Dr. Joseph will report later on suggested opening dates for the sounds and bays.



A Draft Executive Order from the Governor's Office regarding establishing an Aquatic Plant Management Council was mailed to the Commission. Under this draft, the Council would make management recommendations to the Water Resources Commission for their approval and the Water Resources Commission would be the lead agency for developing an aquatic plant management program. Dr. Timmerman noted that the Commission had gone on record requesting the Department to take a lead role in aquatic plant control, thus, any comments on this Draft Executive Order should go through the Commission. We have been requested to give constructive criticisms on this draft. Dr. Timmerman noted that the Department will abide by whatever Executive Order is implemented. On the Council, the Department will have one out of nine votes. Rather than the Council setting management priorities and recommending such to the Water Resources Commission, Dr. Timmerman suggested that the Water Resources Commission staff develop a plan for aquatic weed control and present this to the Council for review and approval. If the Council is unable to agree on management priorities, then it is suggested that the Water Resources Commission develop the priorities. The Draft Executive Order also directs each agency to make personnel and resources available to the Council upon request. Dr. Timmerman suggested this language be softened whereby each agency will cooperate in carrying out the duties of the Council. Dr. Timmerman noted that he would like to pass these comments back to the Governor's Office. Chairman Edens stated that the biggest concern is to get something done and he recommended that the Commission endorse Dr. Timmerman's suggestions. Commissioner Compton moved that we follow the guidelines and participate in the program with revisions to the Executive Order as suggested by staff. Commissioner Dawson seconded the motion and it was adopted by the Commission.

Dr. Timmerman stated that an attorney had wanted to appear before the Commission concerning the Lake Thicketty Creek property, but he was unable to attend today. Our attorney has discussed the deed to a tract of land at the lake with this attorney and they plan future discussions to clear up this matter. Tommy Edwards noted that the attorney has agreed to meet with the staff to go over various documents regarding this project.

Dr. Timmerman suggested that about two-thirds of the time at the September Commission meeting be used for discussion of the report of the Study Committee on Program Funding. For the October meeting, Dr. Timmerman suggested a joint meeting with the PRT Commission at Table Rock State Park to take a look at the Mountain Bridge Project. This would be on October 17th and accommodations will be available for Thursday evening, October 16th. Chairman Edens



noted that the Commission would be notified of further details on this meeting.

Dr. Timmerman recommended that Mr. Dick Taylor of WBT-TV in Charlotte be awarded a Certificate of Meritorious Service. Mr. Taylor has narrated several films for the Department at no charge and has been of excellent service to the Department. He has also narrated "Ethics Afield" which will be shown at the September Commission meeting and Dr. Timmerman suggested that this award be presented to Mr. Taylor at this meeting. Commissioner Shuler moved for the Commission to adopt Dr. Timmerman's recommendation to present this award to Mr. Taylor. Commissioner Owen seconded the motion and it was adopted by the Commission. Chairman Edens requested that Mr. Taylor be notified of this action and invite him to the next meeting.

Dr. Timmerman informed the Commission that former Commissioner Butch Pendarvis has been appointed to the South Atlantic Regional Fishery Management Council.

Dr. Timmerman advised the Commission that we had sent the Secretary of Commerce a copy of our magazine dedicated to the Year of the Coast. A letter commending the magazine was received from the Secretary of Commerce and a copy was distributed to the Commission for their information.

Dr. Timmerman noted that former Commissioner Sam Boykin's wife passed away and a wreath costing \$28 was sent on behalf of the Commission. Dr. Timmerman recommended that such be paid from the Cantey Memorial Fund. Commissioner Compton moved to adopt this recommendation. Commissioner Dawson seconded the motion and it was adopted by the Commission.

ITEM III. APPEARANCE OF MR. C. TYRONE COURTNEY

Mr. Courtney was unable to attend the meeting. Dr. Timmerman discussed this matter in his comments.

ITEM IV. LEGISLATIVE UPDATE

Dan Dobbins reported that he had distributed a copy of the 1980 Comprehensive Legislative Report which provides an update on our legislative proposals in 1980. Mr. Dobbins noted that work has begun on the 1981 legislative package and a draft proposal will be submitted at the October Commission meeting. In regard to legislation, Dr. Timmerman noted that we need early action on legislative proposals as reapportionment will take up a lot of time after April when the final



census figures are released. Chairman Edens stated that the Funding Committee Report should be studied by the Commissioners for the next meeting in order for the Commission to adopt the recommendations and put in priority order. Chairman Edens noted that Laniel Chapman wants to begin meeting with the Governor and others once the Commission adopts the report.

ITEM V. OLD BUSINESS

A. Election of Vice-Chairman: Chairman Edens opened the floor to accept nominations for Vice-Chairman of the Commission to replace former Commissioner Sam Boykin. Commissioner Stubbs nominated Commissioner Dawson to be Vice-Chairman. There being no further nominations, the Commission approved the election of Commissioner Dawson as Vice-Chairman.

B. Commission Appointments: Chairman Edens noted that the Commission needs to elect a Vice-Chairman and Secretary for the S. C. Wildlife Education and Training Fund and the Cantey Fund. Chairman Edens stated that we need to activate and promote this fund and the staff is looking at this to come up with some recommendations. Chairman Edens noted that he serves as Chairman and Commissioner Stubbs is Treasurer. The floor was opened for nominations and election of a Vice-Chairman and Secretary. The Commission elected Commissioner Harrelson as Vice-Chairman and Commissioner Compton as Secretary.

Chairman Edens appointed Larry Owen as Chairman of the Wildlife and Freshwater Fisheries Advisory Board. With the election of Commissioner Dawson as Vice-Chairman of the Commission, Chairman Edens appointed Commissioner Compton as Chairman of the Marine Resources Advisory Board. The Chairman's designee to the Heritage Trust Advisory Board will be made at a later time. Chairman Edens noted that the appointments to the Finance and Audit Committee and the Land Procurement Committee will continue. In addition, Commissioner Stubbs will work with the staff to develop regulations for license agents. On the Legislative Shellfish Study Committee, Chairman Edens noted that he has appointed Commissioner Dawson, Gilbert Maggioni, and Sister Margaret Johnson.

C. FY 1981-82 Budget: Benny Reeves discussed various charts that will be used in the budget presentation which revealed the Department's FY 1981-82 budget by program, source of funds and license sales revenue over the past few years. Dr. Timmerman went over the budget presentation that will be made before the Budget and Control Board noting that we are not requesting any new programs or personnel. This included various points on our proposed budget



and additional funding needs which we are requesting. Commissioner Harrelson noted that the Department of Interior has, in the past, bought equipment for a number of agencies in other states and he asked if this could be done here. Dr. Timmerman stated that he was not aware of such funds, but we will look into this matter.

ITEM VI. NEW BUSINESS

A. Rule and Regulation Procedure: Dan Dobbins noted that the rule and regulation procedure has been mailed out in the Commission packet (copy attached to original Commission Minutes). The process is very complex and responsibilities for various steps in the procedure have been divided for various members of the staff. This procedure also provides that regulations will be developed with a degree of permanence and to be placed into effect in time to get our brochures printed and distributed. Mr. Dobbins stated that this procedure would be implemented this year for regulations to be filed in the 1981 session of the General Assembly along with our proposed legislative package.

B. Discussion on Carolina Refinery Permit (Sampit River): Chairman Edens noted that this proposed permit has been discussed in-house and a letter was received from Dr. Jackie Jacobs requesting the Commission to consider asking for an Environmental Impact Statement (EIS) before the permit is issued. Ed Duncan presented an overview of this proposed permit which is to install underwater pipelines across the Sampit River. In February, 1980, the Department commented that not enough information was available to address our concerns on the permit. The Corps prepared an Environmental Assessment, but this still did not provide enough information to meet our concerns. There are a number of issues involved with this permit and we feel an EIS would best address these issues and it would provide an opportunity for public input. Mr. Duncan noted that we have recommended to the Water Resources Commission that an EIS be done in order to address various issues. Mr. Duncan distributed a copy of the issues and our concerns on this permit to the Commission noting that an EIS would best address our concerns. Dr. Timmerman stated that we look at the affects on fish and wildlife, but there should be an agency to look at all the impacts. Chairman Edens asked if we could request an EIS through the Water Resources Commission. Ed Duncan noted that we respond on the permit to the Corps through the Fish and Wildlife Coordination Act and to the Water Resources Commission at the state level. Thus, we can ask for an EIS through the Coordination Act and urge the Water Resources Commission to ask for an EIS at the state level. Ben Gregg stated that the Governor's Office has requested that an EIS be prepared. Following other discussion, Commissioner Compton



moved for the Commission to adopt the concepts in the draft letter prepared on this permit in asking the Corps for an EIS and asking the Water Resources Commission to make the same request of the Corps. Commissioner Harrelson seconded the motion and it was adopted by the Commission.

C. Request for Vessel Acquisition: Dr. Joseph reported that we acquired The Dolphin in 1972 and it is in need of serious repairs at this time. The National Oceanic and Atmospheric Administration (NOAA) is taking a vessel, The Oregon, out of service and we have an opportunity to acquire this vessel which is more suitable for our work and consumes about half the fuel of The Dolphin. Dr. Joseph stated that we do not have assurance that we can get this vessel, but are requesting approval from the Commission to proceed in efforts to acquire The Oregon. This would be a no-cost lease from NOAA. Chairman Edens asked about costs involved in making this change. Dr. Joseph stated that the cost in bringing The Oregon around would be less than the cost of making repairs to keep The Dolphin operating. Commissioner Harrelson moved that the staff proceed with acquiring The Oregon. Commissioner Compton seconded the motion and it was adopted by the Commission.

Dr. Timmerman noted that Commissioner Harrelson had called a few weeks ago concerning an individual using several butterfly nets and Dr. Joseph called him into his office to discuss this matter. Dr. Joseph noted that the individual, Mr. Chauvan, has established a residency in Charleston. He has an oyster lease and uses the butterfly net in the off-season. The butterfly net is fished from a boat at the surface and is, traditionally, used in Louisiana. Mr. Chauvan came to the staff and asked if these nets were legal. Dr. Joseph stated that his original interpretation was that the net was not legal as a channel or set cannot be fished from a boat. Dr. Joseph requested an opinion from the Attorney General's Office to confirm this opinion or change it. The original opinion from the Attorney General's Office stated that the regulation defines a channel or set net too specifically for the regulation to apply to the butterfly net. Dr. Joseph stated that Mr. Chauvan was informed that under present law, it was a legal piece of gear. Mr. Chauvan fished the net, but was not too successful. Rumor spread along the coast that he had caught sixty barrels of shrimp, but the staff found out that the shrimp were bought in Louisiana and trucked to South Carolina. Dr. Joseph noted that the question becomes one of differing interpretations on the rule and regulation and what action the Commission wants to take on this situation. Dr. Joseph stated that other shrimpers have expressed an interest in these nets. The butterfly net is fished in an area closed to trawling and there may be continued interest in this net if it continues to be interpreted as a legal activity. If the channel net regulation is applied to this net, then it can be managed accordingly and only fished at the same times as in the legal trawling areas. It is basically a legal question as to whether the current regulations can be applied to this situation. Chairman



Edens stated that this matter is of concern to people on the coast as several showed up this past weekend to discuss the net with him. Chairman Edens noted that he did not see how we can read the regulation to make it legal. This net is being fished in the nursery ground where others cannot go to fish. The use of this net is having a biological impact. Chairman Edens stated that this is before the Commission on whether or not to allow this to continue to operate. Tommy Edwards stated that there is no formal opinion from the Attorney General's Office, but he was asked if the regulation on channel and set nets would apply to this situation. Mr. Edwards noted that he based his opinion on the technical information given in that this net is not a channel net as defined by the regulation and this position is maintained. Mr. Edwards noted that if the Commission deems it necessary to deal with this matter, an emergency regulation can be issued and justified regarding the butterfly net. Mr. Edwards stated that the Commission can decide that the regulation does apply in this situation. The Commissioners made several comments expressing their concern over the use of this net under the current situation. Chairman Edens stated that it appears it is the concensus of the Commission to stop the use of these nets. Commissioner Harrelson moved that the Commission take the position that the regulation applies, but in the event it does not, then the staff should do whatever is necessary to restrict the fishing of the butterfly nets to the same areas and time established for trawling and channel nets. Commissioner Compton seconded the motion. Dr. Timmerman stated that if this goes through an emergency regulation, then action will be taken to make it a permanent regulation. The Commission adopted the motion on this matter.

D. Proposed Waterfowl Regulations: Brock Conrad noted that the 1980-81 Proposed Waterfowl Regulations had been mailed to the Commission (copy attached to original Commission Minutes). Commissioner Dawson distributed letters to the Commission noting that he has been contacted by about 250 people in favor of the 3:00 p.m. closing for ducks. Mr. Conrad stated that these season are based on the Fish and Wildlife Service's proposed framework which will be confirmed next week. The seasons are about the same as last year and a split season for ducks is recommended. With the mottled duck project, a closed season on black ducks in Georgetown, Charleston and Colleton Counties and a statewide closing on mottled ducks are recommended. The non-toxic shot zones are the same as last year, but this applies to all gauge guns this year. The steel shot will be made for 10, 12, and 20 gauge guns, but not for 16-gauge. Commissioner Harrelson asked if we had any discretion on the gauges for steel shot, but Mr. Conrad noted that we did not as this was part of the federal regulations. Following other discussion, Commissioner Dennis called for a division of the question regarding the



proposed regulations. Commissioner Dennis moved to approve all seasons as recommended by staff. Commissioner Harrelson seconded the motion and it was adopted by the Commission. Commissioner Dennis moved to adopt the staff recommendation on shooting hours. Commissioner Dawson stated that a lot of people want a 3:00 p. m. closing on duck hunting in Georgetown County and he moved to amend Commissioner Dennis' motion to set a 3:00 p. m. closing on duck hunting in Georgetown County except for the last two days of the split season when the shooting hour would end at sunset. The amendment to the motion was seconded and adopted by the Commission. The amended motion of Commissioner Dennis was seconded and adopted by the Commission. Commissioner Dennis moved to adopt the bag and possession limits as recommended by the staff. Commissioner Harrelson seconded the motion and it was adopted by the Commission. Commissioner Dennis moved to adopt the closed season on Canada geese as recommended by staff. Commissioner Compton seconded the motion and it was adopted by the Commission. Commissioner Compton moved to accept the steel shot enforcement in the counties as recommended by staff. Commissioner Owen seconded the motion and it was adopted by a majority of the Commission with Commissioner Harrelson casting a dissenting vote. Commissioner Dennis moved to approve the staff recommendations of no-open season on swans, Atlantic brandt, and mottled duck, and no black duck hunting in Georgetown, Charleston and Colleton Counties. Commissioner Shuler seconded the motion and it was adopted by the Commission.

E. Proposed Turkey Regulations for Game Zone 9: Brock Conrad reported that proposed regulations for turkey hunting in Game Zone 9 were mailed out to the Commission (copy attached to original Commission Minutes). Mr. Conrad recommended that the turkey season in Georgetown County be April 1 through May 1, gobblers only, 2 per day and 2 per season bag limit. Mr. Conrad recommended that the turkey season in Clarendon and Williamsburg Counties be closed until the populations increase to a higher level. Commissioner Dennis moved for the Commission to adopt these regulations as recommended. Commissioner Dawson seconded the motion and it was adopted by the Commission. These proposed regulations will be filed with the General Assembly.

Mr. Conrad also stated that the Wildlife and Freshwater Fisheries Advisory Board recommends several changes in existing turkey regulations. It is recommended that no change in types of weapons used for turkey hunting be implemented. The Board did recommend that live decoys be prohibited for turkey hunting on Hunt Units and areas controlled by the Department. Commissioner Compton moved for the Commission to adopt this recommendation prohibiting live decoys.



Commissioner Dawson seconded the motion and it was adopted by the Commission. Mr. Conrad noted that this would be filed as a proposed rule and regulation.

F. Division Reports:

1. Administrative Services: There was nothing further to report.

2. Wildlife & Freshwater Fisheries: There was nothing further to report.

3. Law Enforcement & Boating: There was nothing further to report.

4. Information & Public Affairs: Sonny Baines asked Dennis Gunter to present a brief overview of the K-9 program. Mr. Gunter distributed some information on this to the Commission noting that the legislature has passed a requirement for a defined minimum program with training in natural resources education. A pilot program has been developed by the Environmental Education Section this year and we hope to set up a statewide program next year. Dr. Timmerman stated that \$16,000 is needed for the pilot program this year, but we do not have the funds budgeted. Dr. Timmerman noted that this program could be a good use for the Education Training Fund in getting people to contribute to it for this program. Dr. Timmerman stated that we will continue this program and try to implement it if funds are available.

5. Marine Resources: Charlie Bearden noted that a statement from the staff was distributed to the Commission earlier in the meeting regarding an opening date for shrimping in the sounds and bays (copy attached to original Commission Minutes). Based on the count of shrimp that have been sampled by the Marine Center staff, it is recommended that the sounds and bays open on September 3rd for shrimping, with September 9th as an alternate recommendation. This would allow time to get the word out to shrimpers. Commissioner Shuler moved that shrimping in the sounds and bays open on September 3rd. Commissioner Harrelson seconded the motion and it was adopted by the Commission.

G. Advisory Board Reports:

1. Wildlife and Freshwater Fisheries: There was no report from the Board this month.

2. Law Enforcement and Boating: Commissioner Shuler stated that the Board met on August 6th and the minutes were sent out. It was noted that the non-resident big-game permit has created some problems relative to the laws on shooting preserves. Dr. Timmerman stated that a procedure to handle shooting preserve applications has been implemented to handle most of these problems.



3. Marine Resources: There was no report from the Board this month. Dr. Timmerman reported that the Shellfish Study Committee established by the General Assembly will hold its first meeting at the Marine Center on September 3, 1980.

4. Heritage Trust: There was no report from the Board this month.

H. Salary Review Committee: Dr. Timmerman stated that this report is in order and a copy has been sent to the Commission Chairman.

I. Appointments: Dr. Timmerman distributed a copy of the recommendations for appointments and re-appointments of Deputy Wildlife Conservation Officers and Conservation Officers (copy attached to original Commission Minutes). The Commission approved all DWCO re-appointments and new appointments, and all Conservation Officer re-appointments as recommended. The Commission discussed the application of James Stanley of Beaufort County for a Conservation Officer's position. Chairman Edens noted that Mr. Stanley applied for a job about five years ago. He was convicted of night hunting for deer. Judge Eltzroth sentenced Mr. Stanley to work with an officer one night a week for a year. Mr. Stanley has a number of impressive recommendations for employment, but there are reservations on recommending him for a Conservation Officer's job with this conviction. Dr. Timmerman stated that if the Commission decides to employ the individual, it is recommended that he be placed on a one-year probation rather than six months. Chairman Edens asked Bill Chastain to comment on this matter. Mr. Chastain stated that the Commission made an exception to the DWCO policy about two years ago and issued Mr. Stanley a DWCO commission. Chairman Edens noted that this was issued upon request of the Chairman of the Commission at that time. Mr. Chastain stated that since this was an exception to the DWCO policy, it was felt that this proposed appointment should be reviewed by the Commission due to his night hunting conviction. Mr. Stanley was tested and came out number one in the hiring procedure. Commissioner Bennett stated that the merit system was set up to take politics out of the hiring of Conservation Officers, but if this is approved, then it will be a step in reverse. Dr. Timmerman stated that due to the circumstances, the staff does not have a recommendation on this matter, but is seeking guidance from the Commission. Commissioner Harrelson noted that he has received several calls on this individual and he would like to neutralize himself on this matter. Mr. Chastain noted that we have a policy on the appointment of Deputy Wildlife Conservation Officers relative to convictions of game violations, but no policy exists for hiring Conservation Officers. Chairman Edens stated that we need a policy regarding this matter. Commissioner Owen



noted that the crime has been committed and it would be difficult for him to arrest individuals without getting some static. Other discussion followed. Chairman Edens asked if anyone wanted to make a motion and no one did. Following other discussion, Chairman Edens announced that the Commission declined to consider the individual for a commission at this time, based on his record. Dr. Timmerman recommended that the Law Enforcement and Boating Advisory Board and staff come up with guidance on violations in connection with hiring Conservation Officers to recommend to the Commission. Chairman Edens asked that this be ready for consideration at the September Commission meeting.

J. Other Remarks: There were no further remarks from the Commissioners.

K. Time and Place of the Next Meeting: Chairman Edens stated that the next meeting will be held at the Dutch Plaza Office on September 19, 1980. The October meeting will be held at Table Rock State Park on October 17, 1980. Dr. Timmerman provided instructions for the time and place for the budget hearing before the Budget and Control Board later that afternoon.

ITEM VII. ADJOURN

There being no further business to come before the regular meeting, a motion was adopted to adjourn.

