

TEXAS PARKS WILDLIFE DEPARTMENT

TPWD

RESPONSE LETTER TO

RE: SUSTAINABLE TEXAS OYSTER RESOURCE MANGEMENT LLC

(S.T.O.R.M.LLC)

RE: "LEASE" (CLCND) and (STORM)



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July 21, 2014

Mr. Tracy Woody
Manager
Sustainable Texas Oyster Resource Management, LLC (STORM)
136 County Dock Road
Anahuac, Texas 77514

Re: "Lease" between CLCND and STORM

Dear Mr. Woody:

By letters to the Texas Parks and Wildlife Department (TPWD) dated May 23 and July 1, 2014, on behalf of Sustainable Texas Oyster Resource Management, LLC (STORM), you raised several issues and asked several questions related to STORM's lease of submerged coastal property from the Chambers-Liberty County Navigation District (CLCND). We appreciate your bringing these issues to our attention.

In reviewing this issue, TPWD has obtained a copy of the Coastal Surface Lease (the Lease) entered by CLCND and STORM effective April 15, 2014 pursuant to which CLCND purports to lease to STORM approximately 23,000 acres acquired by the CLCND pursuant to Patents from the General Land Office in 1957 (the Patents). The property covered by the Lease includes private oyster reefs authorized by leases and certificates of location issued by TPWD pursuant to Chapter 76 (Oysters) of the Texas Parks and Wildlife Code, and Title 31, Chapter 58, Subchapter A (Statewide Oyster Fishery Proclamation) of the Texas Administrative Code. In addition, the property covered by the Lease includes a number of public oyster beds also authorized by law.

We understand that STORM is taking the position that notwithstanding the existence of oyster leases, certificates of location and public oyster beds, STORM has the exclusive right to plant and harvest oysters in the area covered by the Lease. It is also our understanding that STORM's position is based, in part, on language in the Lease.

After reviewing the Lease, the CLCND's enabling law, the terms of the Patents, and relevant statutory provisions, including those located in the Texas Parks and Wildlife Code, the Texas Natural Resources Code and the Texas Water Code, it is the opinion of TPWD that the CLCND lacked the authority to enter into a lease that purports to exclude current oyster leaseholders or the public from property covered by the Lease or that purports to convey rights regarding planting and harvesting of oysters.

4200 SMITH SCHOOL ROAD
AUSTIN, TEXAS 78744-3291
512.389.4800
www.tpwd.texas.gov

To manage and conserve the natural and cultural resources of Texas and to provide hunting, fishing and outdoor recreation opportunities for the use and enjoyment of present and future generations.

Mr. Tracy Woody
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CLCND's ownership of submerged land is subject to the limitations of its enabling authority under the Texas Constitution, its specific purpose as defined by the Texas Legislature, and the reservations and limitations of the Patents themselves.

As a result, it is TPWD's position that STORM does not have the right or authority to plant and harvest oysters within the property covered by the Lease, absent a lease from TPWD and certificate of location. Furthermore, it is TPWD's position that STORM does not have the right or authority to exclude persons or entities holding leases and certificates of location issued by TPWD from the property covered by the Lease. Finally, it is TPWD's position that STORM does not have the right or authority to exclude members of the public from public oyster reefs. Of course, STORM continues to have authority to plant and harvest oysters in areas for which STORM has obtained a lease and a certificate of location from TPWD.

Please be aware that TPWD game wardens will be enforcing the law, including the provisions of Texas Parks and Wildlife Code, Chapter 76 (Oysters) and Texas Administrative Code, Title 31, Chapter 58, Subchapter A (Statewide Oyster Fishery Proclamation), and may issue citations consistent with TPWD's position as set out in this letter. In addition, please be aware that interference with the lawful conduct of other holders of commercial oyster leases and certificates of location or with the lawful public harvest of oysters may also constitute a violation of Texas Parks and Wildlife Code, Section 62.0125 regarding harassment of hunters, trappers and fisherman.

Again, we appreciate your bringing your questions to TPWD's attention. If you have any questions or comments, please do not hesitate to contact my office.

Sincerely,



Ann Bright
General Counsel

cc: Ms. Mary Beth Stengler
General Manager
Chambers-Liberty County Navigation District
P.O. Box 518
Anahuac, Texas 77514