

REVIEW OF GULF OYSTER INDUSTRY PROGRAM GRANT PROJECTS:
LOUISIANA OYSTER LEASES VS. COASTAL RESTORATION AND CLEAN-UP
OF CONTAMINATED OYSTER BEDS

Erinn W. Neyrey*, Joe Stevenson and Michelle Marney

LSU Sea Grant Legal Program
LSU Law Center, Rm. 170
Baton Rouge, LA 70803
eneyrey@lsu.edu

Louisiana oyster leases vs. coastal restoration: Louisiana's coastal wetlands account for more than 25% of all wetlands found within the United States, yet this important ecosystem is disappearing at an astonishing rate. In order to counter coastal erosion, Louisiana has developed an extensive plan consisting of numerous restoration projects. One of the major components of the plan is the construction of fresh water diversion projects. The diversion of sediment-rich river water is designed to mimic the natural flood cycle and allow the river's sediments and nutrients to be deposited in the coastal zone. Oyster farmers in the restoration areas have experienced negative impacts on their overall productivity due to the changes in salinity. These impacts have lead to lawsuits being filed by the oyster farmers against the state for damages. In response, Louisiana has passed legislation creating the Oyster Lease Relocation Program (OLRP). The OLRP is designed to offer alternatives to the oyster farmers that find themselves in a restoration area. While this program may not provide a cure for all of the problems that may arise it does provide an extra-judicial means to resolve many of the disputes between oyster farmers and the state resulting from coastal restoration projects.

Clean-up of contaminated oyster beds: Louisiana is the top processor of oysters within the Gulf region, which produces nearly 60% of the nation's oysters, and is home to 900 oyster farmers. Successful business planning by members of this significant industry benefits not only those in the industry but the state as well. Relocation of leases due to fouled oyster beds implicates not only the livelihood of an oyster farmer but the lifestyle as well. Both the Clean Water Act and Louisiana's Water Control Law clearly prohibit the discharge of pollutants into waters, however these laws do little to address the actual clean-up of polluted water bodies. Therefore, solutions to the water pollution problems are turning increasingly on interpretive regulation and policy of the U.S. Environmental Protection Agency and the private citizen actions that seek alternatives to the imposition of civil penalties. Supplement environmental projects offer a potential flexibility that traditional enforcement actions to not.