

Governor Nikki R. Haley
Office of the Governor
1205 Pendleton Street
Columbia, South Carolina 29201

Dear Governor Haley,

I am an alumnus of USC and a third generation commercial fisherman. I do not shrimp or oyster or crab like any other regular SC commercial fisherman. I collect display animals for public aquaria. Overall I retain very few fish and those all alive. As a conservationist, I only take what is necessary for the aquaria that retain me. Recently, an aquarium in Branson, Missouri, (Branson's Wild World) received contaminated food and lost their entire shark display including stingrays.

They retained me to replace as much of their display as possible. This is a tall order as our shark season for the required species is down to the last few weeks that the sharks will be available for collection or shipment (due to temperature and offshore migration). Also, the US NMFS shut down the small coastal shark season *before* the quota had been taken. Since the SC state law states that unless there is a state law otherwise, state law on sharks is the federal law including closures, I cannot use my state shark permit to fish for these in state waters as I normally would do.

Fortunately, the state law includes a law providing for the collection of *any* animal in state waters, except mammals, for public display, SC Code **SECTION 50-5-340 (B)**. I helped review and make recommendations on this law when Dale Theiling of SC DNR drafted this law. It was necessary to protect state resources and the public interest when the feds first started gutting the shark industry with quotas and closures and restrictions on species. It was passed into law the second year of operations of Ripleys' Aquarium Myrtle Beach (my first shark client). And, as far as I know, I was the first permitted collector in our state. The law was specifically drafted to allow the take of sharks in state waters regardless of federal shark regs as the feds were banning collection of the very sharks that are needed by public aquaria for no good reason.

Since then, I maintained that permit almost every year until Melle Belle became the director of salt water fisheries at SC DNR. I generally did not need it but had it just in case a special need arose. When Mr. Belle took over for David Cupka as director of salt water fisheries, I met with him his first year and introduced myself. I did so because I use tackle the same as DNR does in their research for collection of some animals for display under the permit. I wanted him to know me personally as my application for special shark collection for public display was new to him. However, he has failed to issue me this permit repeatedly without any written notification as to why he has refused to do so. In fact, he has never once answered my applications in kind (i.e. in writing) with either a rejection or denial or even an admission that he had read the permit application.

In the past I was never denied this permit for use with sharks and usually I did not need it. However, as the federal closures have become so restrictive as to nearly shut down all shark fishing and their list of protected species (none of which are actually endangered) has done the same, I have need of the permit. With this early closure in federal waters on the small coastal sharks that Branson's Wild World aquarium needs, I have to have the permit to save their display. Considering my historical receipt of the permit and the number of sharks requested (less than 35 most newborns), there is no excuse for delay.

Angel Brown, Permit Coordinator for SC DNR Saltwater Fisheries, advised me that she would get the permit approval started over 2 weeks ago. Since then, I have heard nothing. Historically, this permit can be issued the same day the application is received given I am a repeat permittee with an untarnished record. It is very upsetting that a permit that represents less than 100 lb of shark and less than 35 actual fish would be delayed knowing the dire need of the aquarium and the school term having begun.

I am, therefore, appealing to you as chief executive officer of the state of South Carolina to intervene with all haste that you will on our behalf. One of the reasons that we in the Myrtle Beach Tea Party supported your original campaign was your position on state authority and states' rights. Your protection of the SC Constitution to this point has been very satisfying to us and made us proud when other states and the media have made note of your stands for it and the US Constitution's Bill of Rights.

I ask you to stand for me now as our state constitution identifies hunting and fishing as God-given rights and we have drafted laws protecting the public ownership of and interests in our natural resources. The law, SC Code **SECTION 50-5-340 (B)**, allows for issuance of a permit to collect these sharks out of season and with any tackle approved in the permit *with no required time period for consideration*. I enclose the permit application I submitted to SC DNR on August 15th, for your perusal. No collection technique or species listed therein for the public display is any different than those used and taken by the SC DNR in their own research. I used to be on a first name basis with some of the head researchers for SC DNR. I know well their tackle and. I used to maintain a federal Exemptive Fishing Permit for sharks but I no longer do so as I no longer fish federal waters for sharks.

I only have a few days left that these sharks will be available and while outdoor temperatures will allow me to store them for shipping to Branson. I ask that you or your office contact SC DNR directly and request the permit be issued immediately according to the terms listed in the permit application that you have before you. I assure you that I have never been convicted of a fish or game violation let alone received a UTT in regard to any hunting or fishing law. There is no legitimate reason for SC DNR to delay my permit or deny it.

It is my sincere concern that they intend to ignore it or issue the permit once it is too late to collect the sharks. Unfortunately for Branson, I am basically the only supplier of these sharks in the world for public display. I have decades of experience as a pioneer in the

collection and transportation of live elasmobranchs. My uncle and I put the first sharks in Ripleys Aquarium before it opened. I was featured in the State News for that.

As your constituent and a fellow South Carolinian, I respectfully ask for your timely aid in this matter. I do not know that I may be able to get a Writ of Mandamus on this particular law. Therefore, as SC DNR is under your authority, I believe the buck stops with you. It is important to South Carolinians both in taxes and education that the responsible collection of these sharks be protected. We have a constitution and legislation to do just that in spite of any bureau that would attempt otherwise. I am not asking for permission to take anything from someone else as these sharks belong to you and I not the SC DNR. Thank you for your time and for your service to the state of South Carolina.

Sincerely,

A handwritten signature in black ink that reads "Kenneth Moran". The script is cursive and fluid, with the first name and last name clearly distinguishable.

Kenneth Moran
Shark Wrangler

SECTION 50-5-340. Permits; use for commercial purposes and disposition of proceeds; violations and penalties. [SC ST SEC 50-5-340]

(A) The department may grant permits for taking, holding, and propagating fish or other marine resources excluding any marine mammals for:

- (1) exploratory;
- (2) experimental;
- (3) scientific;
- (4) educational; or
- (5) commercial display purposes.

These permits may authorize activities which would otherwise be unlawful. These permits expire at the pleasure of the department, but permits granted for exploratory or experimental commercial purposes are limited to no more than two years and may not be renewed. Permits granted pursuant to this section may include conditions as to the areas, times, seasons, types of fishing equipment, species to be taken, catch reporting requirements, disposition of the catch, and other conditions the department determines necessary. No permittee may take fish or marine resources in violation of permit conditions.

(B) The department may permit marine resources collected pursuant to exploratory, experimental, or commercial display permits to be used for commercial purposes. Marine resources collected pursuant to scientific or educational permits may not be used for personal consumption, but the resource or the proceeds of its sale may be used by the department for marketing and promotional purposes. Any product in excess of department needs may be disposed of according to law. The department may condition permits to allow sale of marine resources for **public display**.

(C) A person who violates this section for a commercial purpose is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars and not more than two thousand five hundred dollars or imprisoned for not more than thirty days.

(D) A person who violates this section for other than a commercial purpose is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days.

HISTORY: 2000 Act No. 245, § 2.



8-13-2014

To: Kenneth Moran

From: James Kelly / Branson's Wild World

RE: Sharks needed

Dear Mr. Moran,

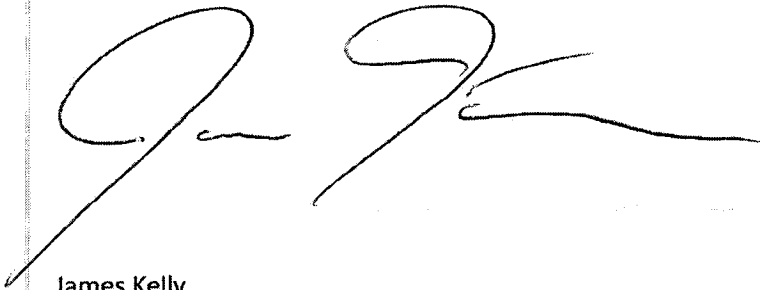
As per our conversations on the phone, we need you to begin work on collecting the replacement sharks for our display as soon as possible. I understand that you need to procure the Permit for Public Display from the SC DNR before you can begin. So, please, apply for it as soon as possible listing us as the recipients of the requested species. Please, do not use shark tags or any other damaging identifying tools as these would compromise the health of the sharks and possibly cause infections. We must have the healthiest possible specimens.

As you recommended, we also will be petitioning Governor Haley for her help in expediting the permit issuance. As I explained, we need immediate replacements for the sharks that we lost so that we will have a display for the rest of this year. We cannot wait until spring of next year to have sharks to display. We will be ready for shipping as fast as you can get the permit and collect the sharks.

If all goes well, we would certainly be interested in more sharks from South Carolina next year in addition to other fishes found in your waters. I appreciate your quick responses and all you

effort to help us recover from this heavy and unusual loss of animals. It is very upsetting to loose these beautiful sharks especially given all the work and care that goes into displaying them. Please feel free to call me with any questions at 314-504-3849

Sincerely,

A handwritten signature in black ink, appearing to read 'James Kelly', with a large, stylized initial 'J' and a long horizontal stroke extending to the right.

James Kelly

President

Branson's Wild World, INC.

2020 West Hwy. 76, Branson, MO. 6561

Collection for Public Display and Research Permit Request for State of SC
Prepared by Ken Moran, August 14, 2014

Applying Permit holder Data:

Kenneth Moran
1700 Calhoun St
Georgetown, SC 29440
843-545-6577 (number not for public distribution)

Purposes and Goals of Permit for Public Display:

Permit is necessary to provide live animals for display and research. Specifically, Branson Wild World Aquarium had a sudden loss of all sharks creating an immediate need for replacement display animals. As the federal closures have just been made on all small coastal sharks and restrictions have been made on Sandbar Sharks, a SC state permit is necessary for the needed specimens to be taken in state waters under the sole jurisdiction of the state of South Carolina in accordance to the laws of the state (namely SECTION 50-5-340).

In order to supply this sudden and unexpected need, a permit is needed. Species such as Sand tigers and Sandbars are staples of the aquarium trade. The state Permit for Public Display allows the opportunity to support a captive population and limit impact on the wild population. The permit allows sharks to be taken AS NEEDED rather than needlessly collected during open seasons. This desire to conserve the natural resources of the state should be the same desire in the SC DNR.

Also, the nature of the commercial quotas does not work in congruence with the seasonal availability of these species for collection for public display and research. **Latitude for limited collection of these species throughout the year is necessary.** Proper collection is a function of natural availability. Permit for Public Display for fishing with special gear and during closure periods fishing status would accommodate not only the goals of SC DNR but the spirit of the law of SC in regard to natural resources. All care must be given to minimize impact on wild populations while educating the public to the importance of these species through public displays.

It should be noted that aquarium collection is not a large scale collection operation and the number of specimens requested in this application are, compared to the metric ton quotas allowed for commercial fishing, almost nil. While NOAA allows a quota of over 150,000 lb. of these species in federal waters, this permit request is for less than 50 sharks that should be a total weight less than 100 lb. Therefore, the volume requested in this application is not statistically significant and equivalent to no take at all. It should also be noted that their closure occurred when less than half of the quota of these sharks had been collected in all Atlantic Group state and federal waters.

Vessels to be used in Collection

16' Mc Kee Craft SC 2874 AB
Kenneth Moran
1700 Calhoun St
Georgetown, SC 29440

23' Parker SC 8191 AE
Steve Poston
512 Jacobs Avenue
Georgetown, SC 29440

17' Mc Kee Craft SC 872 RJ

Steve Poston
512 Jacobs Avenue
Georgetown, SC 29440

19' Proline SC 2765 BL

Dennis Russ
332 Jacobs Ave.
Georgetown, SC 29440

Species Composition of Catch

The primary target of the fishing would be sharks small coastal sharks that are under closure in federal waters (collection will be in state waters only). Bycatch of fishes other than elasmobranchs would be insignificant with no casualties given the prescribed collection techniques. Research of the fishing techniques to be employed reveals that no other fisheries should be affected or impacted. While the few bycatch species are unregulated species, environmental impact of this operation is expected to be nonexistent. This would be the endeavor of the permit holder.

Species collected would be taken live. Animals lost in transport or collection would still function in role of research samples and data collection. Unnecessary loss of life will be avoided. The species and numbers requested under this permit at this time are as follows;

20 Atlantic Sharpnose Sharks

4 Finetooth Sharks

10 Bonnethead Sharks

4 Sandbar Sharks

Specimens to be taken are planned as subadults not breeding adults. This eliminates the impact on the wild population.

Fishing Information

The techniques and gear used would be between boats and activities based upon the most effective gear being used to expedite collection while mitigating bycatch. A varied approach to collection will be used to effectively target the species with the majority of fishing likely as hook and line. Equipment will be as follows: hand rods and reels, longlines, and gillnets of short length.

As known to the SC DNR, short soak gill net hauls are effective in minimizing impact while maximizing catch. They are used by SC DNR every year. Short gillnet sets are safer on collected animals and allow minimal bycatch. They are not the preferred gear to be employed. However, with the time constraints of this stock replacement, they may be necessary and would be used only as needed.

Accountability to SC DNR

In accordance with SC state law, all vessels used are operating under salt water commercial licenses and shark vessel permits. Any vessel not bearing both standard permits will not be allowed to collect under this permit. Nevertheless, no other permits are required by law as no fishing is being conducted under this permit in federal waters. All collection will be under the sovereign authority of the state of SC with accountability thereto.

Given that the weather, tides, and personal factors affect collection schedules, advance notification of specific fishing trips is impractical. The replacing of the lost stock of the public aquarium with South Carolina specimens in such a short period of time at the very end of the

seasonal availability and practical weather indicates that fishing would be conducted as much as necessary to complete the collection as quickly as possible. Therefore, SC DNR Marine fisheries should provide the game wardens operating in Georgetown and Charleston the vessel list of this permit, a copy of the permit and the name of the permit holder.

In that way, the wardens will have foreknowledge of the collection activities upon issuance of the permit. A copy of the permit will be maintained on all vessels employed pursuant to the permit during permitted activities. Applicable SC laws already dictate the terms of the common interaction between the wardens and the fishing vessels involved.

No proprietary information on the nature of, techniques used, or employed by the permit holder to keep sharks alive during collection or transport will be disclosed to the SC DNR. Given the proprietary nature and financial value of these techniques, they shall remain the private property and knowledge of the permit holder. A further explanation of this issue is that the permit holder over 20 years in the field pioneered various techniques of transporting sharks costing him thousands of dollars. He does not disclose this proprietary information to any but some of his crew bound by non-disclosure agreements. Nothing in being permitted to collect these resources of the people of SC indemnifies the SC DNR to any proprietary information or money. Depriving a citizen of their property without due process of law is punishable crime in SC.

Timely Issuance

As the DNR directors and researchers know, the seasonal availability of the desired species is almost over for the year. Also, the outdoor temperatures required to maintain and transport these sharks will soon to end due to season. Ergo, timely consideration and issuance of this permit is absolutely necessary. Issuance is requested by August 20, 2014 to provide as much of the remaining time for the collection of these replacement specimens as possible. Consideration time for this permit should be minimal given the past issuance of this same permit for many years since its inception to the petitioner and the lack of any danger of the permitted activities to the overall natural resources of SC and the environment.

The issuance of this permit sets no precedent and is historical. It supports the aquarium trade of SC and is important to our natural resources and economy. The fact that the petitioner has never been convicted of any crime or accused of any game related crime speaks to his character. His record of being a leading pioneer of shark handling not only in SC but in the world speaks for itself. Therefore, the DNR is requested to expedite issuance to meet the goals of this permit and aid the public aquarium in its time of need.

Summary

A state Permit for Public Display is requested by Kenneth Moran to collect sharks in SC state waters during a federal closure. The permit would be for the purposes of restocking the shark displays in public aquaria. Environmental impact will be minimal if not nil due to technique, experience, and responsible fishing practices. If more than one vessel is employed on a given day, all shall carry copies of this permit to verify being part of the collection effort.

Applicant Signature:

Kenneth Moran

Collection for Public Display and Research Permit Request for State of SC
Prepared by Ken Moran, August 14, 2014

SUPPLEMENTAL

Permit Beneficiaries

The current request for sharks necessitating this permit came from the following public aquarium.

Branson's Wild World, INC
2020 West HWY 76
Branson, Mo 65616.

Any sharks remaining after replacement is completed will be released or provided to another public aquarium. This is not anticipated but it is acknowledgment that no shark taken on this permit shall be used for or provided to any private interest.

Accountability II

The sharks collected under the permit will be confirmed received by the Public Aquaria with a direct report from the aquarium receiving the shark to the SC DNR office designated by the Permit department. In this way, the SC DNR can confirm that sharks collected did not exceed permit limits and were received by bona fide public aquaria.

A full report of the sharks taken under this permit will be made within 14 days of collection. A shorter reporting time is suggested given the nature of the permit. Report will contain the number of sharks and species not the gross weight as specimens are not weighed in handling. All care is given to survival not data collection. Approximate total length may be provided if so desired by DNR.

In summation, two reports will be provided, collection reporting and receipt of stock by the aquarium. Thus, monitoring of the proper use of the permit can be maintained by the DNR.