

The Albemarle-Pamlico Estuarine Study  
Citizens' Advisory Committee Meeting  
Manteo, NC  
October 10, 1992

MINUTES

**Welcome and Approval of Minutes**

The meeting was called to order at 10:00 a.m. by Pamlico Citizens' Advisory Committee Chair, Derb Carter. Attendance list (see Attachment A). There were no proposed changes to the minutes of the last Citizens' Advisory Committee meeting, nor were there any proposed changes to the agenda. Agenda (see Attachment B).

**Public Meeting Comments**

Program Director, Mr. Randall Waite, stated that four public meetings relative to CCMP public input were held during the week of September 28--October 1, 1992. Two of those meetings were well attended, while the other two were more sparsely attended. The New Bern meeting had seventy-five people in attendance; Rocky Mount had fifteen; Elizabeth City had sixty-five; and Franklin, VA had ten. Mr. Waite felt that the meetings were successful and a good opportunity for public input. He explained that the meeting set up and format were changed after the first meeting (New Bern) to encourage dialogue with the audience and to discourage resemblance to Public Hearings.

**Committee Comments**

Mr. Waite opened with the revision of the CCMP. The revision will be based on public comments, comments from the committee members and any other comments received. A revised draft of the CCMP will be sent to committee members for review within 3--4 weeks. Mr. Waite continued stating that he would like to see a CAC meeting held in November in conjunction with the Policy Committee (PC) meeting so that the CACs can review the document, comment on the document and vote on it before the Policy Committee. After discussing the dates for this meeting at the Technical Committee Meeting, held October 9, 1992, it was recommended that the meeting be held Monday, November 23, 1992. Waite recommended that the TC meeting be during the day on the 23rd with the CAC meeting that evening followed by the PC meeting on the 24th.

Waite responded to Mr. Carter's question regarding the objective of the series of meetings by stating that the meetings were for the voting on the CCMP. All members were in agreement with the dates of 23 and 24 November.

Waite stated that the CCMP will be mailed out by 30 October, 1992 to the committee members.

**Proposed Changes**

Mr. Waite began the discussion of proposed CCMP changes on a general note stating that staff had heard many comments at the public meetings. People were mainly



concerned with the economic impacts of CCMP recommendations. Waite felt that this was a real concern and that it needed to be addressed. Waite also stated that one of the shortcomings of the Plan is that there is not a cost/benefit analysis required to engender discussion on what the economic impacts will be (i.e. effect on businesses and counties). He said he did not necessarily feel that these concerns should override environmental protection, but that the people had a right to know how it would affect them.

After a brief discussion of the above, Mr. Waite informed the committee that two resource economists will be joining the APES staff. Their responsibility will be to categorize the economic concerns and to address the cost/benefits. Waite was not sure how much information could be analyzed nor what could be accomplished in the short amount of time the economists had to accomplish their work.

Tom Stroud had concerns about whether the resource economists would consider the cost of non-regulation. The economists will mainly categorize and show what the benefits are and what needs to be looked into. If time permits, Mr. Waite will have them look into the non-regulatory versus regulatory aspect. Mr. Stroud mentioned if certain activities were not regulated, what would the impact be. Waite stated that this is one of the things that will be looked into by the economists.

Mr. Waite stated that the analysis will be for a period of six months, but staff will be receiving their information as it is received and fed into the process quickly. Mr. Waite made it known that time is essential. Waite also mentioned that APES is hiring personnel to do a legal analysis to state what can be done and how to go about accomplishing this from legal stand point.

Mr. Waite asked the staff to go into specifics about the proposed changes. Margaret Scully began by reviewing the Human Environment Action Plan and Vital Terrestrial Areas and Wetlands Action Plan. She began by discussing the background information, which she said is basically an overall introduction to the plans. The comments from the public meetings were considered. Throughout the CCMP the management actions were reorganized into a new structure with the following five categories: environmental benefits, implementation strategy, implementation costs, implementation timeline and considerations. All of the action plans needed further description, discussion, and clarification as far as all five categories were concerned. Discussions of the Vital Terrestrial Areas and Wetlands Action Plan have led to the clarification of the word acquisition to avoid misinterpretation as acquisition through condemnation.

Ms. Scully also mentioned that in two of the public meetings, in reference to the recommendation for the State Comprehensive Wetlands Program. Part of it was clarification of the recommendation of a new regulatory permit program to be implemented by the state, which we are not recommending. That was a real concern with the public. Ms. Scully stated that this was not meant as a recommendation, it was meant to be educational.

Kristin Rowles discussed the Fisheries Action Plan. She explained the changes which will occur. These changes consist of more emphasis on the environment benefits, the implementation timeline, and the implementation cost. Ms. Rowles



also stated that there will be more information about freshwater fish, particularly in the Albemarle region. The public comments were basically about over-regulation and fishermen are concerned about how the plan will affect them. They were interested in whether the plan would cause increased levels of regulation and therefore more cost to them. She added that fishermen stated concerns that only the Fishery section of the CCMP would be implemented, therefore, targeting only fishermen.

Ms. Rowles continued stating that there was some resistance expressed for the recreational saltwater fishing license. Recommendation regarding a cost share program for best fishery practices, such as bycatch reducing gear is included in the CCMP. Questions were raised about how that would be implemented, what fisheries would be targeted each year, and if there would be adequate funding to support all fishermen who would like access to cost share funds.

Ms. Rowles mentioned a discussion concerning the definition of submerged aquatic vegetation (SAV). There were questions about whether SAVs should be limited to native species that are targeted for protection or should be expanded to include other species.

Ms. Rowles ended her review by disclosing that there were comments about using oyster population as filters for nutrients. That will be a topic about which more information will be gathered.

Mr. Waite discussed the revision of Water Quality Action Plan. He stated that revisions will consist of justifying the benefits and detailing what will be gained from each recommended action. This decision was based on the resistance received concerning these actions. The subject of Antidegradation Clause of the State Water Quality Standards needs more research to see if it really addresses what is stated in the plan.

Bill Piland expressed a concern regarding the subject of cost not being addressed in the study. He thought that cost should be evaluated with regard to the benefits of different alternatives, and that an attempt to quantify them should be made even though it could cause political ramifications. Piland believes that if cost is not evaluated, only those topics most politically expedient and easiest to implement will be done. Piland stated that his main concern was where this effort should be targeted.

Mr. Waite felt that the cost share programs that are being recommended are fairly well received.

On the subject of strengthening compliance with Special Orders by Consent (SOC), Waite stated that the staff is not positive what action needs to be taken. The problem with SOCs lies within areas such as schools where the lack of funds to build treatment plants is common. Because schools, for example, cannot be shut down, the permits are still being violated.

Joan Giordano discussed the Public Involvement and Education Plan. She mentioned concerns about how the plan was written in the first draft and stated it needed to be written in a manner more consistent with the other plans. Ms. Giordano state that there are parts of the plan that need to be put in more detail.



She went on to say that for the next round of public meetings, APES should utilize the electronic mail system at North Carolina State University (NCSU) to better inform interested parties about the meetings and perhaps generate better attendance.

In another discussion, Mr. Waite stated that the public wanted to make sure that their interests were adequately represented on the implementation council. The public stated that the council members were mostly appointees of the Governor and they wanted some members who were legislative appointees.

Dr. John Costlow, PC member, stated that an attempt to have another Citizens' Advisory Committee, in addition to the ones we have would definitely cause unnecessary problems.

It was stated that "oversight" will be needed because there will be other people needed to make the plan work. Also, this might be the best way to achieve development of the plan.

Sybil Basnight, ACAC member, stated that the Implementation Committee does not have regulatory authority. She recited the purpose of the CAC and said that the Governor states how things will be done. Citizens should sit on the Citizens' Advisory Committees and the commissions concerning environmental management, marine fisheries, and coastal resources, not on the council.

Chairman Carter stated that the people who make decision on this matter no longer will be associated with this due to the changes that the upcoming election will bring. "There will be a whole new set of people and ideas to whom we will have to speak concerning this five year study," he said.

Mr. Waite mentioned that there was a discussion with the CRC in Wilmington last month and that a specific in-depth briefing would be held with them in November prior to the PC meeting. All members of the CRC now have a copy of the draft CCMP, and all members of the others commissions will be sent a copy.

#### **Adjourn**

Chairman Carter adjourned the meeting at 12:00 p.m. The next Joint CAC meeting will be held on December 8, 1992 at the Washington Regional Office of the North Carolina Department of Environment Health and Natural Resources beginning at 7:00 p.m.\*

\*Please note this change of date.



SIGN IN

<u>NAME</u>	<u>ORGANIZATION</u>
• Marlene L. Dubanks	QPES
• Bill Piland	ACAC
• RANDY WAITE	APES
• <del>Dub</del>	PCAC
→ Wood H. Grissom	Hampton Roads PDC
→ MIKE ORBOCH	ORC / RECU
→ Patty Valentine Darby	U.S. Fish + Wildlife
→ Mike Wick	USFWS - RALIGH
• Brent Purn	PCAC
• K.P. Willis	ACAC
• Paul Giordano	HPES
• Margaret Sully	A.P.E.S.
• Yates M. Barber	ACAC
• Kristin Rowles	A.P.E.S.
• <del>Steve O'Sullivan</del>	ACAC
• Ralph Burt	PCAC
• Guy Stefanski	A.P.E.S.
• <del>Wyl</del>	CAC
→ John O. Costlow	APES/PCO
→ George Detcher	Inst. of Zoology - Phil Acad. of Sciences
→ <del>John</del>	→ Allamore CAC
John Costlow	



**AGENDA  
CITIZENS' ADVISORY COMMITTEE  
OCTOBER 10, 1992**

**ADMINISTRATIVE OFFICE CONFERENCE ROOM  
ADMINISTRATIVE BUILDING  
211 BUDLEIGH STREET  
MANTEO**

- 10:00 WELCOME**
- 10:10 CONSIDERATION OF MODIFICATIONS TO THE CCMP**
- Public Meeting Comments
  - Committee Comments
  - Proposed Changes
  - Future Schedule
- 12:00 ADJOURN TO FESTIVAL**



**Summary on the legal analysis of the alternatives available for  
requiring land, water resource and water use planning in A/P counties**

December 7, 1992

The CCMP of the A/P Study recommends the development of legislation which would require land use, water resource and water use plans in all localities throughout the entire A/P region. A legal examination of the alternatives available to accomplish this objective is currently being completed. The following is a summary of the alternatives which are being examined:

**1st option: A heightening of the planning requirements already in CAMA to include the criteria recommended in the CCMP.**

CAMA is the only N.C. law which has specific environmental planning requirements for an area of the state comparable in size to the A/P region. In addition, the counties covered in CAMA comprise almost half of the counties in the A/P region. However, the extent of planning required for the coastal counties falls short of the recommendations in the CCMP. Therefore, one option would be to heighten the planning requirements in CAMA to reflect the recommendations of the CCMP.

Although only twenty of the A/P counties would initially be affected if this option was utilized; it would require a modest amount of effort and would provide a limited testing ground for experimental purposes. To achieve the objectives set forth in the CCMP, two changes in CAMA will be necessary.

First, a mechanism must be put into place which will require local governments to actually implement county and municipal plans. Currently, CAMA requires coastal counties to prepare local plans setting forth goals which are consistent with management and environmental protection purposes of CAMA. However, CAMA does not require ordinances which are necessary to actually implement the local plans. A model for such a mechanism can be found in the Water Supply Watershed Protection program currently under the supervision of the N.C. Environmental Management Commission. An amendment to CAMA is necessary to produce this type of mandate.

Second, the State Guidelines must be altered to reflect the recommendations in the CCMP. Only then will local governments be required to implement heightened requirements into their local plans. To alter the State Guidelines, either CAMA could be amended to direct CRC to implement the APES guidelines into the State Guidelines, or the CRC could adopt this change when the State Guideline is reviewed in 1994.

**2nd option: An expansion of CAMA westward to include the A/P counties**

Because the planning goals in the CCMP are much like the ones required through CAMA, an extension of CAMA westward to cover remaining A/P counties would, at the very least, provide for basic CAMA water and land use planning to be required in A/P counties which are not currently covered by the Act.

There is a potential legal conflict rooted in the state constitution which forbids the General Assembly from enacting legislation which unfairly singles out localities for special treatment. CAMA, as defined by its current western boundaries, has already met this constitutional challenge. In 1978, the N.C. Supreme Court determined that the distinction between the coastal counties covered in the Act and other counties of the state did not violate the constitution because the western boundary determination passed the rational test set forth by the Court.

An expansion of the boundaries will likely meet the same challenge, but there are several sound arguments concluding that an expanded CAMA will be determined constitutional. The legislative findings of CAMA must be amended to reflect an awareness that, in order to protect the coastal area of the state, additional protection of the entire drainage basin of the coastline is necessary. The westward expansion, however, cannot be limited to the A/P counties. It must include the entire drainage basin of each of the State's estuarine systems.

Two amendments to CAMA will be required: a legislative finding that the management of the entire drainage basin is necessary to protect the coastal sound, and an amendment to the definition of "coastal area" to include the entire drainage basin.

For political palatability and practicality, it would be helpful to also insert a clause preventing the applicability of AEC permitting requirements to the new localities, because the main objective of including the additional counties is to require certain types of planning, not more stringent permitting.

### **3rd option: A revival of the Land Policy Act**

The Land Policy Act was created in 1974 and repealed, for all practical purposes, in 1981. The skeleton of the Act still exists, and can be revived.

The purpose of the Act was to create an environmental State land use policy. The Act established a Land Policy Council, which was comprised of various government officials, and an Advisory Committee, which consisted of a combination of citizens of the State and elected officials.

The Land Policy Act was handicapped in the beginning with no provisions for implementation. It was only able to serve in an advisory capacity, and thus became inactive after research on policy and management techniques was completed.

Thus, the alternative exists to revitalize the Land Policy Act, tailor it to achieve the APES recommendations, and establish either a new council, committee or both.

### **4th option: New legislation specifically tailored to the APES recommendations**

A package of entirely new legislation can be written which would be tailored to specifically implement the recommendations put forth in the CCMP. The legislation could not be limited to the A/P counties because such a legislative class would be constitutionally invalid. The protected class would need to be the drainage basin of both of the state's estuarine systems.

The type of legislation which would probably be the least controversial would be an act which delegated the authority to set up and implement a planning program directly to the Secretary of the Department of Natural Resources. If public participation is deemed a crucial part of the program, a citizen's Council should be appointed.

\*\*\*- Additionally, the option of joining forces with the Committee appointed to analyze state-wide planning options should be considered.

A full legal analysis of the above will be completed shortly. Anyone with suggestions or questions should contact Melany Earnhardt through the APES office.

**DRAFT CITIZENS' ADVISORY COMMITTEES AGENDA**

**DECEMBER 8, 1992  
REGIONAL OFFICE CONFERENCE ROOM  
1424 CAROLINA AVENUE  
WASHINGTON, NORTH CAROLINA**

7:00 PM	WELCOME/APPROVAL OF MINUTES/ CHANGES TO AGENDA	Brewster Brown/ Derb Carter
7:05	PROGRAM REPORT	Randall Waite
7:15	CHANGES TO CCMP	Randall Waite
7:30	DISCUSSION OF CCMP: HUMAN ENVIRONMENT	Meg Scully
7:45	CCMP DISCUSSION: VITAL AREAS	Meg Scully
8:00	CCMP DISCUSSION: WATER QUALITY	Guy Stefanski
8:30	CCMP DISCUSSION: FISHERIES	Kristin Rowles
8:45	CCMP DISCUSSION: PUBLIC EDUCATION	Joan Giordano
9:00	CCMP DISCUSSION: OTHER SECTIONS	Randall Waite
9:15	VOTE ON CCMP RECOMMENDATION	Brewster Brown/ Derb Carter
9:45	NEW BUSINESS/PUBLIC COMMENT	Brewster Brown/ Derb Carter
10:00	ADJOURN	Brewster Brown/ Derb Carter



## CCMP SCHEDULE

*Revised 11/2/92*

<u>WEEK</u>	<u>ACTION</u>
9/28	Public Meetings
10/5	Summarize Public Comments
10/12	Staff Revises CCMP
10/19	Staff Revises CCMP
10/26	Staff Revises CCMP
11/2	Staff Revises CCMP
11/9	Print CCMP
11/16	Mail CCMP to Committees
11/23	Committees Review Revisions to CCMP
11/30	Committees Review Revisions to CCMP
<b>*12/7</b>	<b>TC (12/7), CAC (12/8), and PC (12/9) Meetings</b>
12/14	Staff Revises CCMP
12/21	Print and Release CCMP to Public
12/28	Public Review
1/4	Public Review
1/11	Public Review
1/18	3 Public Meetings (1/18, 19, and 20), CAC (1/21) and TC (1/22) Mtgs.
1/25	Staff Revises CCMP
2/1	Print and Mail CCMP to All Committees
2/8	Committees Review Revisions to CCMP
2/15	Committees Review Revisions to CCMP
2/22	Final TC (2/22), CAC (2/22), and PC (2/23) Meetings for CCMP Approval

\* **Revision**





COASTAL ZONE  
MANAGEMENT

# *The Commonwealth of Massachusetts*

*Executive Office of Environmental Affairs*

*100 Cambridge Street*

*Boston, Massachusetts 02202*

## **ACTION ALERT**

**To:** NEP Directors, and Management Committee and Citizen Advisory Committee Chairs  
**From:** Jeffrey Benoit, Chair, Mass Bays Program Management Committee/Director, CZM  
**Date:** December 1, 1992  
**Re:** NEP Budget Cuts

In case you have not yet heard, EPA is considering cutting the National Estuary Program 1992 budgets by 30% across the board!

**This is an IMMEDIATE CALL FOR ACTION to mobilize a letter-writing response in support of FULL FUNDING OF THE NATIONAL ESTUARY PROGRAMS!**

If this rumor becomes reality, it could spell disaster for many of our estuary programs. It would substantially weaken, if not destroy:

- \* The progress coastal states have made in creating an identity for the nation's estuaries,
- \* The strides coastal states have made in building cooperative working relationships around shared resources,
- \* The interchange of information and ideas among agencies at all levels of government, and between government and citizens,
- \* The ability to fund critical research, educate and involve the public, demonstrate effective pollution prevention and remediation projects, and implement our action agendas.

The outreach, planning, and research elements of the states' programs have begun to harness a desire within the many residents of the nation's watersheds to take action where needed, and to address environmental issues head-on. EPA should not be cutting NEP budgets, but should be expanding them all to allow for implementation of these plans.

The National Estuary Programs are just beginning to taste success as the two oldest programs begin implementing their CCMP's. Slashing NEP budgets after years of research, planning, and coalition building is unconscionable.

## **TAKE ACTION NOW**

- 1) Mobilize your Citizens Advisory Committees in protest of this threat.
- 2) Write ASAP with your support of NEP's to:  
 William K. Reilly with copies to:  
 Marian Mlay, EPA/NEP and Bob Wayland, EPA/OWOW
- 3) Write ASAP to your representatives in Congress.

Act now in full force in order to maintain full-funding of the NEP's.



## Proposal

### **Economic Characterization of the Albemarle-Pamlico Estuarine Study Comprehensive Conservation Management Plan**

Steve Smutko and Vernon Cox

#### Objectives

- 1) Perform a characterization of the APES conservation management plan,
- 2) Locate and evaluate relevant economic studies, data, and methodologies that could be used to determine the economic consequences of the management plan, and
- 3) Prioritize economic studies for the plan.

#### Procedures

Two full-time researchers will be hired for a period of six months to work on the objectives outlined above. They will be supervised and assisted by Steve Smutko and Vernon Cox for about 5-10 hours per week each.

The project team will work jointly with APES personnel to review the management plan and develop a framework to identify and evaluate economic considerations of the management plan. The team will consider each objective in the plan from Table 1 in the Executive Summary. The framework will include a description of market and nonmarket costs and benefits, private and government costs, and policy instruments.

The project will collect all known economic studies carried out in the APES region over the last 12 years. This will include published research and personal contact with individuals at local Universities who are likely to have conducted research in relevant areas. In addition, a review of economic methodologies that may be appropriate for evaluating components of the management plan will be conducted. Finally, data sources including soil erosion, pesticide use, nitrogen use, and others to be determined during pre-contract negotiations will be cataloged and evaluated.

The final objective of the project is to utilize the information from objectives 1 and 2 to prioritize, in consultation with APES personnel, needed economic studies. Priorities will be based on perceived need for answers and the difficulty and cost of completing research. Work will be reviewed by University researchers experienced in the area of natural resource economics.

A final report will be submitted within 6 months after award of the contract. The project team will assist APES staff in writing the APES project report which is due at the end of February.

