

**NC Coastal Resources Advisory Council
Hilton
Wilmington, NC
September 20-21, 2006
Meeting Summary**

Attendance

Bill Morrison (Chair)	Maximilian Merrill
Dara Royal (Vice Chair)	Wayne Mobley
Frank Alexander	J. Michael Moore (Thurs)
Deborah Anderson	Spencer Rogers
Bert Banks (for Eddy Davis, Thurs)	Robert Shupe
Joseph Beck	Harry Simmons
Webb Fuller	Stephen Sizemore (Thurs)
William Gardner Jr.	Lester Simpson
Renee Gledhill-Earley	David Stanley (for Don Yousey)
Gary Greene (Thurs)	Mike Street
V. Hansen (for Lee Padrick)	Ray Sturza (Thurs)
Judy Hills	Penny Tysinger
Al Hodge	Joy Wayman
Joe Lassiter	Dave Weaver
Travis Marshall	Ginger Webster
Gary Mercer	Traci White (Thurs)
Courtney Hackney (CRC)	Joan Weld (CRC)

Council Call to Order

Bill Morrison called the meeting to order with 28 members in attendance. The Council approved the March 2006 minutes without amendment.

Carolina Beach State Park Marina Tour

The Council toured the Carolina Beach State Park Marina to see the stormwater best management practices (BMPs) that had been installed. Several BMPs were in place, including a rain garden, grassed swales, and an oil filtration system to capture pollutants from the parking lot. Park staff noted that there had not been any pre- or post-installation water quality monitoring to measure the effectiveness of the BMPs.

Consistency-Equivalent General Permit for Local Governments

Doug Huggett explained that he was speaking because the CRAC had asked if the CRC could establish a general permit that would be the equivalent of a federal consistency determination for maintenance projects. The permit would be available to local governments. Doug stated that prior to beginning maintenance activities the Corps of Engineers has to prepare a determination that the proposed work will be consistent, to the maximum extent practicable, with the State's coastal

management regulations. The State needs to concur with the Corps' determination before work can begin.

Doug said that Corps' consistency determinations cannot be transferred, so local governments would need to secure new permits. The only option currently available is a major permit. Doug said he recognizes that local governments may not have time within a given dredging season to obtain a major permit if the Corps cancels its involvement in the project. Webb Fuller asked if local governments could use the Corps' data in their permit application. Doug replied that they could, provided that the data were still valid. Harry Simmons asked whether a local entity could transfer money to the Corps if the Corps were to suddenly lose its funding for a planned project. The Corps' Keith Harris replied that the Corps has no mechanism in place for receiving non-Federal money.

Courtney Hackney suggested that the Commission could design a GP for projects that received their consistency determinations later than a certain date, but that projects that received their determinations prior to that date would need to apply for a major permit. Spencer Rogers noted that even if a consistency determination is old, it would presumably have an updated situational analysis. Doug Huggett countered that neither emergency activities nor regular activities would necessarily have updated analyses. Spencer asked for an example of an emergency action that would not have a current analysis. Doug said that in the Spring of 2006 there were seven inlet crossing projects that were deemed emergencies. Permits were granted in a very short time, with no situational updates.

Courtney Hackney asked Keith Harris whether the Corps would go along with the general permit if it were adopted. Mr. Harris said that the Corps would not, but that they would issue a general permit allow, for example, a marina to dredge its entrance channel to the AIWW and do upland disposal, or beach disposal quality if the sand is compatible with State standards. Mr. Harris said that the Corps' GP requires a lot of internal, behind-the-scenes coordination, making it more like a major permit review. Mr. Harris said that the Corps has a mechanism to allow a State government to fund a project as if the Federal government were funding it, and also has a mechanism for private funding. Mr. Harris stressed, however, that these mechanisms take much longer than a typical GP review, and must be complete before work can begin.

Mr. Harris said that applications for this proposed GP could take as long as 6 months to review because of all the interagency coordination that would be required. Mr. Harris said that too much could go wrong environmentally and economically for reviews to happen quickly.

Doug Huggett said that he had prepared an early draft solely for discussion purposes, but that there were many complications. Doug said that the proposed GP would encompass three major components of the State's coastal management program:

1. Dredging. Timing when dredging is allowable is not consistent along the entire coast, makes one-size-fits-all GP difficult.
2. Hydraulic dredging with high ground disposal. Must consider shellfish beds, fish spawning and nursery areas, etc.
3. Beach disposal. Timing restrictions due to nesting seasons; sediment compatibility; easements; pipeline location; other considerations.

Doug said that the proposed GP would require a lot more interagency coordination than the current GP framework and timing allows for.

Keith Harris said that the 291 Corps/CAMA permitting process has been used a lot, but the key is that agency input is essential. Mr. Harris said that issues to be resolved include the equipment to

be used (sidecast would not work in the permitting arena), and disposal (who gets the beach quality sand from an inlet dredging project?).

Mr. Harris said that if a Federal project is authorized, local governments should identify, early on, which portion of the project they would like to take responsibility for.

Webb Fuller referred to Specific Condition (k) in the draft GP. Webb asked whether dredged sand “must be” placed on the beach if a project is funded 100 percent by a private entity or a local government. Courtney Hackney responded that by rule, public sand must remain in the littoral zone. Webb then referred to Specific Condition (l), and asked if every upland disposal site has to be individually permitted. Doug Huggett replied that these projects would all be hydraulic dredging, so slurry disposal would need stringent controls and each site would have to be permitted. Al Hodge added that DWQ would not issue 401 permits for upland disposal because of the risk of groundwater contamination from salt water infiltrating into the water table.

Courtney Hackney advised that all parties must together determine whether a GP would truly be helpful, and if not, why not? Dr. Hackney said that if the GP would be as complicated as a major permit, it might not be a feasible option.

Mike Street said that the range of projects is very wide. Mike suggested that DCM could start with a list of all possible projects, broken down by type. From there, staff might be able to determine which types of projects might be appropriate for a general permit.

Stormwater Overview

Al Hodge briefed the Advisory Council in preparation for a small group discussion. Al stated that if a development project requires a CAMA major permit or soil and erosion control permit (i.e. impacting an acre or more in a CAMA county), the project will also need to get a State stormwater permit. Al explained the Low Density development option: impervious cover cannot exceed 30 percent if the project is far from SA waters, or 25 percent if adjacent to SA waters. Otherwise, the project would require an engineered stormwater management system to treat the first flush (one inch) of rainfall. The engineered system must be designed to remove suspended solids.

Al referred to a study done by DWQ showing that the State stormwater program is not working adequately, primarily due to the Low Density option. Al said that DWQ scientists had recommended lower limits than 30%/25% when the rules were being developed. Al mentioned that the State’s Phase II stormwater law passed in July 2006 set a 12 percent limit for Low Density development. Harry Simmons asked what the DWQ scientists had recommended when the rules were first being discussed. Al replied that they recommended 12%/10%, but now believe those numbers may still be too high—they believe that 10%/8% may be required.

Al commented on the use of grassed swales for stormwater management, saying that while they are intended to remove bacteria, they have actually be found to accumulate sites because, for example, they are a common place where pet owners walk their animals.

Shellfish Overview

Wayne Mobley briefed the Advisory Council in preparation for a small group discussion. Wayne stated that stormwater runoff is the number one reason for shellfish closures. The State must meet strict Federal water quality standards otherwise waters must be closed to harvest. Wayne said that the State has a management plan in place to close shellfish waters automatically after every rainfall of an inch and a half or more, and that the installation of a wastewater or sewage treatment plant

also causes an automatic closure. Wayne said that septic systems cause problems because of overflows or poor maintenance, and that waste from livestock, wildlife, waterfowl and domestic animals can also cause closures. Wayne said that the State is required by Federal law to close shellfish waters in a buffer zone around marinas. Wayne said that pesticides, paints, chemicals and other pollutants cause problems with shellfish spat and reproduction, even at levels that may not harm human consumers. Wayne added that the problems are magnified, resulting in more closures in small bodies of water that have less dilution ability.

Buffer Overview

Mike Street briefed the Advisory Council in preparation for a small group discussion. Mike stressed that human health comes before everything else, including jobs. Mike said that it is accepted by the EMC and the General Assembly that the current buffer framework is not effectively addressing the water quality problems in the State. Mike said that a lot of the State's buffers do function relatively well, but it is very site specific.

Group Discussions—CRC Recommendations

The Advisory Council broke up into three small groups to continue discussions on the subjects of stormwater management, shellfish closures, and buffers. The CRAC had been charged by Courtney Hackney to come up with specific recommendations for rule changes and other actions that the CRC could take to address issues that the CRAC felt should be State priorities. The CRAC had decided at their June meeting to focus on stormwater, shellfish and buffers, and to come up with a list of no more than five recommendations to present to the CRC in September. The groups each produced a list a recommendations, which the full Council then modified and selected the top five to present to the CRC:

1. Expand public education efforts to local governments, and provide them with a toolbox of best management practices to share with the public. Work through the Coastal Reserves Education and Outreach program.
2. Expansion of the 30-foot buffer. State experts have determined that a 30-foot buffer with up to 30 percent impervious cover has not stopped the increase in shellfish closures. No recommendation on width, rely on the expertise from other agency and academic sources.
3. Amend rules to give the equal protection to all shellfish waters, regardless of their status. The Commission's buffer rule, 7H.0209, allows development on small lots subject to several conditions. One condition is that the lots not be adjacent to approved or conditionally approved shellfish waters. This bias works to protect open waters, but can hamper the improvement of impaired waters by not offering the same protection.
4. The Marine Fisheries Commission has made a formal appeal to the Environmental Management Commission to take steps towards a net increase in open shellfish waters. Recommend that the Commission make a similar appeal to the EMC.
5. The EMC currently has a permitting program through DWQ, but it does not have an inspections and compliance program. Of the three CHPPs Commissions, the EMC is the only one without dedicated resources for inspections and compliance. Recommend that the CRC suggest to the EMC that they establish a program for inspections and compliance, with dedicated staffing and funding.

Note: Recommendations 6-10 are not in priority order.

6. Re-establish natural buffers. Retrofit, cost share, education, technical assistance, tax credits.
7. Require DWQ controls when considering variances. Maintenance.
8. Request EMC do more studies to evaluate program effectiveness & compliance, look into other causes of shellfish closures. Expand on Reeder's study.
9. ID critical shellfish areas and acquire lands or easement adjacent to those waters. Could be buffers. Offer tax incentives. Can address through LUPs. Encourage conservation easements. State cost share.
10. Re buffer variances, consider allowing homeowner to contribute to area-wide SW system in lieu of on-lot SW management, where appropriate.

New Business/Old Business

With no further business, the Advisory Council adjourned.

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