

# NC COASTAL RESOURCES COMMISSION (CRC)

June 24, 2009

NOAA/NCNERR Administration Building  
Beaufort, NC

## Present CRC Members

Bob Emory, Chairman

James Leutze  
Chuck Bissette  
Ed Mitchell  
Jerry Old  
Renee Cahoon

Lee Wynns  
Veronica Carter (Present at 10:15)  
Bill Peele  
David Webster

## Present Attorney General's Office Members

Jennie Hauser  
Christine Goebel

## CALL TO ORDER/ROLL CALL

Chairman Emory called the meeting to order and reminded Commissioners of the need to state any conflicts due to Executive Order Number One and also the State Government Ethics Act.

Angela Willis called the roll. Bob Emory stated that he works for a company with large land holdings in eastern North Carolina and may be approached at some point regarding wind energy facilities, however this will not impact any discussions today. Jim Leutze stated that he is on the offshore energy exploration committee which is looking at wind power and he will not participate in this discussion today. Joan Weld, Charles Elam, Wayland Sermons, Melvin Shepard, and Bob Wilson were absent. Based upon this roll call, Chairman Emory declared a quorum.

## MINUTES

David Webster made a motion to approve the minutes of the April 2009 Coastal Resources Commission. Lee Wynns seconded the motion. **The motion passed unanimously (Leutze, Bissette, Cahoon, Webster, Old, Peele, Mitchell, Wynns) (Carter absent for vote).**

## EXECUTIVE SECRETARY'S REPORT

Jim Gregson, DCM Director gave the following report.

### **Reserves Anniversary**

Last Friday, June 19, marked the 20<sup>th</sup> anniversary of our coastal reserve program. In June 1989, the North Carolina General Assembly created the North Carolina Coastal Reserve Program to acquire, improve and maintain undeveloped coastal land and water areas in a natural state. Twenty years later, that seemingly simple act of legislation has led to the preservation of more than 41,000 acres of unique environments on 10 coastal reserve sites along the entire length of our coast. Four of the sites are also part of NOAA's National Estuarine Research Reserve System, a state-federal partnership program designed to improve coastal management and

scientific understanding of the nation's estuarine and coastal habitats. Governor Perdue proclaimed June 19, 2009, Coastal Reserve Day in N.C. in recognition of the anniversary.

While the budget climate has made it difficult to plan a large event, in celebration the Morehead City office staff and Rachel Carson reserve staff spent last Friday morning collecting debris and performing trail maintenance at the Rachel Carson site, followed by a cookout.

### **BIMP Update**

The Beach and Inlet Management Plan continues to proceed forward. Our contractor Moffitt & Nichol delivered on schedule, the first draft of the BIMP to DCM and Division of Water Resources on April 30<sup>th</sup>. We returned our comments back to Moffitt & Nichol on Friday June 5<sup>th</sup>. We have decided to extend Moffitt & Nichol's contract until the end of September. This no cost time extension will allow us some extra time to further review the document and plan for its final release. Soon after the final report is completed, we plan to post the document on our website for the public to view. We also plan to hold public meetings on the final recommendations for further comments and discussion.

### **Clean Marina**

Department of the Interior Secretary Ken Salazar has announced that \$14.6 million will be awarded to 28 states under the Clean Vessel Act grant program in 2009. North Carolina received \$149,000 which will be used to continue to install and repair pumpout facilities under the North Carolina Pumpout grant program which Mike Lopazanski administers for the Division.

### **Online Permit Handbook**

Information on CAMA and other DENR permits are now available online in a permit handbook created by DENR's One-Stop Permitting Program. This Web-based permit handbook centralizes and consolidates all the various permits, licenses, certifications and approvals from each division within the department. Select federal environmental permit information, which frequently coincides or precludes certain state permits, and N.C. Wildlife Resources Commission permits and licenses, are also included. This one-stop resource should help our customers navigate the DENR permit system more easily.

### **Staff News**

Terry Moore, our Washington District Office Manager, will be retiring at the end of July after 38 years with the State, and 28 years with the Division of Coastal Management. Terry is one of our longest-serving employees, and will be greatly missed in the Division.

We are finalizing the Estuarine Shoreline Stabilization Decision Tree. We will have copies available today. The finished product will be a pamphlet that will be handed out to applicants for shoreline stabilization by the field staff. There will be training for field staff on the use of the decision tree later this summer. I would like to thank Dr. Jill Fegley and Bonnie Bendell for their hard work on this document.

### **CHAIRMAN'S COMMENTS**

Bob Emory welcomed Robin Smith, Asst. Secretary for DENR, and stated that she will have a legislative update later in the meeting. Vice-Chair Joan Weld took a bad fall over the weekend and was not able to attend this meeting. Chairman Emory recognized Jill Hickey and stated she was the CRC's former legal counsel. He thanked Commissioners for attending on such short notice and their flexibility to meet. Chairman Emory stated that he was excited to hear the recommendations of the Ocean Policy Steering Committee. While looking through the report, he

stated he was gratified to see that on many of the recommendations we already have initiatives that are in some stage of preparations that respond to many of their recommendations. Many of you know that Jim Stephenson, Coastal Federation, died recently and we send our condolences to Jim's family and the Coastal Federation. Chairman Emory stated he acknowledges that the Coastal Resources Advisory Council has had a reduced role during these abbreviated meetings. Where there is an opportunity to invite the CRAC into the discussions, we will do that.

### **DECLARATORY RULING**

Jennie Hauser stated this declaratory ruling request was filed by the Village of Bald Head Island and J. Andrew Sayre seeking the CRC's interpretation of one of its rules with regard to a specific set of facts that the applicants have brought forward. This is a quasi-judicial proceeding like a contested case. Examine your relationship with any of the parties and think about whether you have a conflict of interest or whether your impartiality could be reasonably questioned. You can disclose any conflicts and we will determine whether you participate. You should be concerned about impermissible legal bias. If you have information about this situation outside of the information that was provided in the packets, you should decide if you can set that aside. A declaratory ruling is a request by a person who has been aggrieved by the application of one of the rules or the Statute. It comes to you for an interpretation to the applicability of the rule on the set of facts brought to you by the applicant. The decision will be binding on the Commission, Staff and on the applicant. If the rules change in the future, the declaratory ruling today may be superseded by the rules. If someone disagrees with the decision, it is subject to judicial review. A ruling by the Commission will have to be issued within sixty days of the applicant's request or it will be considered a denial of the request in Superior Court.

*Jim Leutze stated he owns property on Bald Head Island and will not participate in the discussion today, but requested that an overview of the dynamics of Bald Head Island be added to the agenda of a future meeting.*

Christine Goebel of the Attorney General's Office and Dr. Jeff Warren spoke on behalf of Staff. The rules at issue in the request for declaratory ruling today are 7H .0304, 7H .0306 and 7H .0310 and their applicability to the property located on Bald Head Island known as West Beach. Currently, the Commission rules require an inlet hazard area to use the erosion rate from the adjacent ocean erodible area for oceanfront setback determinations. The West Beach area is using an eight foot erosion rate from the adjacent South Beach area. In reviewing the applicant's request it was determined that this is a policy decision and therefore staff is not taking a position on this request. The eight foot erosion rate used at West Beach under the current setback rules results in a 240-foot erosion rate measured from the first line of stable natural vegetation for residential homes. If a two foot erosion rate were used it would result in a 60-foot setback from the first line of stable natural vegetation. The application of this larger setback has resulted in some homeowners along West Beach seeking tax revaluations due to their non-conforming or unbuildable status because they cannot meet the 240 foot setback. Currently the Commission is going through the rulemaking process with the inlet hazard areas, both redefining the inlet hazard areas as well as what can be done inside the AEC. During this process, there was a realization that West Beach had never had transects done or erosion rates calculated.

Dr. Jeff Warren, DCM Coastal Hazards Specialist, showed the Commission the erosion rate maps used for determining the setback factors. These maps do not show the erosion rates, but do show the erosion rate setback factors that are used for determining the setbacks. These are based on the 1998 shoreline and were approved by the Commission in 2004. The current rules say that for all areas inside the inlet hazard area use the erosion rate for the adjacent ocean erodible area. Since West Beach is in the inlet hazard area, the erosion rate is eight feet based on the adjacent

ocean erodible area. No transects were created and no erosion rates were calculated for West Beach. As part of the inlet hazard area study over the past couple of years we have calculated lots of different rates along the inlet hazard areas, we need to focus on the existing box for this discussion. During the IHA study we noted that the erosion rate up West Beach was lower than eight feet per year. We have created shore perpendicular transects at 50 meter spacing to use the same methodology used in the 1998 study. We have used two shorelines in this calculation to be consistent with the method used in the current erosion rate maps, called an endpoint method. (The transects for West Beach were shown). The area along West Beach based on the same methods is actually 2.1 feet per year or less.

Charles Baldwin of Rountree, Losee & Baldwin, LLP represented the applicants. Mr. Baldwin stated that the Village has been working with DCM staff and has brought to the Commission the concerns about the eight feet erosion rate for South Beach and this rate being applied to West Beach since no rate has ever been set. There is accretion on West Beach and this is a stable area. This has caused a number of issues for the residents and the Village as a result of the application of this rule. This is a unique issue in North Carolina. We are asking that a rate of two feet per year be applied, which DCM agrees is the correct rate. The beneficial effect would be substantial. There have been issues with property owners when they find out that after years of being there, their lots are now non-conforming. Several property owners have appealed their tax valuations. It appears reasonable to correct this unintended situation and reach a result that is in everyone's best interest.

**Jerry Old made a motion to find that no annual erosion rate or transects were previously adopted for West Beach on Bald Head Island, nor shown on the 1998 erosion rate map adopted in 2004; DCM staff has prepared as of June 8, 2009, transects and calculated annual erosion rates for West Beach, consisting of the area within the existing inlet hazard area between transects (1) through (40), inclusive; the Commission declares that the annual erosion rate for West Beach is two feet and same shall be shown henceforth on the erosion rate map maintained by the Commission; and this ruling shall not prevent the Commission from modifying in the future the West Beach annual erosion rate by lawful rulemaking procedure and process. Bill Peele seconded the motion. The motion passed with seven votes (Cahoon, Webster, Carter, Peele, Bissette, Old, Mitchell) and one opposed (Wynns) (Leutze abstained).**

## **PRESENTATIONS**

### **Legislative Update & EMC Alternative Energy Recommendations Robin Smith, Asst. Secretary DENR**

Robin Smith supplied the Commission with copies of a coastal legislation status report. Ms. Smith stated that the budget conversations are ongoing. The House proposed its budget a couple of weeks ago and is in negotiations with the Senate. The House budget looked at the level of reductions that will be necessary to meet the budget gap, as this budget came out after the April revenue figures came in. The House budget proposes the largest cuts. The House did not propose across the board cuts in all programs in DENR. Almost all of the position cuts were vacant. It always hurts to lose positions. The House budget takes targeted cuts such as new programs or takes balances from programs that are not already committed by contracts. We were able to maintain most of our special funds that are dedicated to regulatory or environmental mitigation. There were funds that were taken from some of the special trust funds for conservation purposes. Overall for our Department, it is a manageable set of reductions because

we have been able to protect our core functions. Negotiations are ongoing. We will continue to work on maintaining the Department's ability to meet its responsibilities in terms of environmental protection. There will likely be some degree of normalcy returning after the start of the new fiscal year and a budget is established. There are a few special provisions that DENR has been asked to look at in the House budget (elimination or consolidation of boards, commissions and councils and making sure that fees are keeping up with costs) but we do not know what all of the special provisions will look like.

Ms. Smith addressed five of the proposed bills that seemed to have potential impact on the coastal program. SB 699/HB 1462 is the moratorium bill on cement plant construction in response to the Titan Cement plant concerns. This bill got out of committee on the Senate side, went to the Senate floor, but was pulled before there was a vote and was sent to another committee and has been there for a couple of weeks. SB 778 is the bill that would eliminate the overlap between CAMA and SEPA. It provides for an exemption from SEPA requirements for projects that require a CAMA Major Development permit. The Department has not taken a position on this bill, but we did make a suggestion to make it clearer that it only applies to Major Development Permits. This bill passed the Senate, crossed over to the House and is pending in the House Environment Committee but has not been brought up for discussion. SB 831 is a bill that is not specifically a coastal or environmental bill, but would affect environmental permits including CAMA permits. It would extend the permit term until December 31, 2010 for a permit that has been issued for projects that may have been stranded because of the economic downturn. This bill would extend the permit terms to provide the opportunity to ride out the economic downturn without having to go through the process of renewing their permits. This would include both State and Local permits. This bill has passed the Senate and received a favorable report in House Committee. It goes to the House Commerce Committee before going to the House floor for a vote. SB 832 is a bill which says the CRC may permit terminal groins. The bill passed the Senate and is still pending in the House. SB 1068/HB 809 is a bill for permitting wind energy facilities. The bill largely reflects the EMC's recommendations, as well as, the recommendations of the wind working groups. The Department's recommendation to the EMC was to not try to create a new freestanding program. For efficiency and cost, it seems to make more sense to rely on existing permitting programs. The CAMA permitting program is so broad that it would be better to use the CAMA program. It would give the CRC the authority to issue permits for wind energy facilities anywhere in the twenty coastal counties. This would be one category that would not be dependent on being located in an AEC. A CAMA permit would be required whether they were in an AEC or not. The bill has some specific requirements for permit applications. It requires the applications to address impacts on bats and birds; flicker and noise impacts; sets a permit fee of \$2000.00; requires a plan for decommissioning and removal; requires a public hearing; and gives the CRC the authority to adopt rules implementing the statute sections that would apply to wind facilities. The bill does not specify a Division, but we will most likely use the Division of Land Resources. The bill does not restrict local government authority to regulate wind energy facilities. It proposes to modify the Mountain Range Protection Act, but will exempt wind turbines of less than 100 kilowatts cumulatively in a ½ mile area from the restrictions of the Act. It also proposes to exempt wind turbines of greater capacity to the extent allowed by a local government ordinance regulating the siting of wind turbines. The bill has been referred to the Senate's Agriculture and Environment Committee, but has not been brought up for discussion.

## **Ocean Policy Steering Committee Recommendations (CRC 09-10)**

**Scott Geis**

Scott Geis, DCM Ocean and Coastal Policy Analyst, stated he will present the recommendations of the Ocean Policy Steering Committee and this presentation will serve as the official submittal of the report to the Commission.

The first chapter is sand resource management. When the committee addressed sand resource management we were looking at the identification of sources, availability of the resource, the ability or right of a municipality to obtain sand from state or federal waters, and the perception that sand is a limited resource and how to allocate it in the future. The Committee's recommendation was to identify the resource (endorse and strengthen the BIMP activities). Establish a system of legal rights to state-owned sand resources. Leases would normally come from the Department of Administration, but in the past the DOA has deferred to the CAMA Major Permit program in terms of the ability to allocate resources to a municipality. The committee stated that it was a first come, first served basis as far as submitting an application to DCM (this is similar to what the federal government does). The federal government does not have a system of priorities if two communities were trying to use the same sand. The next issue is comprehensive management of inlet and tidal delta sand sources. There was discussion within the Committee about mining inlets and what that would do to the barrier system. The inlets could become unstable and this could have detrimental effects. This recommendation refers to having some kind of limits on the volume of sand that could be taken for a beach nourishment project. The committee did not come up with specific limits, but thought it was something that should be addressed. The next recommendation, preventing the loss of sand to the barrier system in inlet channels, refers to the ACOE least-cost mandate. When the ACOE dredges inlets and disposes of the sand offshore, it results in a loss of sand to the nearshore system and continued efforts need to be underway to ensure that the State is not losing these vital resources. The next recommendation is the amendment to rules regarding dredging around hard bottom areas and deals with a halo of transport around hard bottom areas. If you dredge too close to a hard bottom area you may be disrupting the nutrient cycle and therefore affect the reef fishes that depend on it. We may need to expand the dredging buffer around the hard bottom areas. The next recommendation is a state comprehensive plan to protect beaches and inlets. This mirrors the BIMP and endorses the BIMP to ensure that we know where the resources are and are providing for the future. The coastal vulnerability index is not a new idea, but the existing vulnerability indexes that are out there are on a much larger scale. To have a more focal, localized scale for North Carolina would be more beneficial in understanding which areas are subject to inlet formation, which had inlets in the past, which are sediment starved and which are sediment rich. The committee looked at having a localized index along our beaches. The next recommendation is a "worst case scenario" for state level planning document. This would be used if sea level rise occurred on a scale much larger than we anticipate or if we had several major hurricanes. This would be a document that establishes what areas of our coastal communities would be a priority and what infrastructure we could not live without. The sea level rise component to CAMA land use plans essentially asks the question to municipalities if sea level rise did occur and relocation or retreat was required where would you move oceanfront houses. The committee felt these would be valuable answers as it will show the economic problems that these municipalities may face and would be a planning tool. The next recommendation was to make the donation of unbuildable threatened lots more appealing through the conservation tax credit program. This would be an incentive to make it more appealing to homeowners to donate these properties. The last recommendation for sand resource management was the disclosure of natural hazards when purchasing coastal real estate.

Ocean based alternative energy is an area that has emerged. This also encompasses water current energy, tidal energy and wind energy. The focus of the study committee was to look at the impediments surrounding the siting of these facilities as well as the user conflicts. The first recommendation was the enactment of a comprehensive statute and promulgation of rules to address the granting of easements and leases of State-owned submerged lands and the associated water column and air space for alternative energy projects. In addition to the CAMA Major Permits that would be required, there would need to be some sort of lease for one of these projects. The second recommendation is the review of existing CRC rules affecting alternative energy facilities sited in state and federal waters. The Committee's request was that DCM review the 7M .0400 rules to ensure there is adequate coverage for alternative energy facilities. The next recommendation was the clarification of CRC, EMC, and Utilities Commission roles in the development of rules for ocean based alternative energy projects. This is already being addressed and we will be awaiting the outcome of the Bill that is in the State House. The next recommendation is the examination of CRC policies on non-water dependent structures and their pertinence to alternative energy facilities. If the House Bill does not go forward, the Committee recommends that the water dependent rules not be changed to include wind turbines as water dependent, but rather create an exception that would allow for the permitting of all alternative energy facilities in State waters.

The next two chapters are straight forward. The ocean outfall chapter was included as the Committee felt it was important to identify what steps the State could take in the future with both wastewater and stormwater and the concerns about the recent drought. These recommendations follow along with the CHPP recommendation of no new or expanded outfalls for stormwater or wastewater. The Committee went one step further in saying existing outfalls should be decommissioned. The Committee thinks it is most important for the State to examine alternatives for the current treatment of stormwater or wastewater. Marine Aquaculture may or may not be feasible in North Carolina waters due to the depths of water needed for these facilities. The Committee felt it was important to perform a technical assessment of the feasibility of this industry to prepare for the future should there be an application for a facility.

The last chapter is Comprehensive Ocean Management. There is only one recommendation. The recommendation is to update the coastal-ocean resource maps.

A handout was provided to the Commission illustrating the overlap between the CRC priorities and the OPSC recommendations. The main overlap is in the three chapters of sand resource management, comprehensive ocean management, and ocean-based alternative energy. Public access is addressed in the sand resource management chapter with the establishment of a fund for public access. Climate change and sea level rise priorities have a lot of overlap specifically when talking about mining of sand, development of a coastal vulnerability index, and adding a sea level rise component to CAMA land use plans. The comprehensive ocean management falls into this overlap as any updating of our maps will allow us to make better decisions in the future. Energy production overlaps with the ocean-based alternative energy chapter. The 7B LUP guidelines review priority overlaps the sand resource management chapter as it would add a sea level rise component to CAMA land use plans.

**Jerry Old made a motion to accept the Ocean Policy Steering Committee report and where appropriate utilize the BIMP. Jim Leutze seconded the motion. The motion passed unanimously (Cahoon, Webster, Carter, Wynns, Peele, Bissette, Leutze, Old, Mitchell).**

Chairman Emory appointed a subcommittee to look at the OPSC report and address which recommendations are within the purview of the CRC, lay out the next steps and bring to the CRC

for discussion. The subcommittee was also asked to look at the beach summit report recommendations. Subcommittee Members: Joan Weld (Chair), Bill Peele, Lee Wynns, Dara Royal, Spencer Rogers, David Webster, and Harry Simmons.

### **Update on Inlet Hazard Area Boundaries & Draft Report (CRC 09-09)**

**Dr. Margery Overton**

**Dr. Jeff Warren**

Dr. Jeff Warren, DCM Coastal Hazard Specialist, stated he would address the draft report dealing with the inlet hazard box boundary recommendations. Dr. Overton will address the efforts of the Staff and Science Panel subcommittee on inlet hazards and some of the concerns about the setbacks and erosion rates inside the inlets. There will be proposed changes to the boundaries of the twelve developed inlets, a recommendation of removing three inlets that are closed, and a recommendation of making no changes to the boundaries of the other inlets due to their undeveloped nature. Staff does not feel comfortable moving forward with boundary changes until we also have a full policy review and policy recommendations for what to do inside the new boundaries.

Dr. Margery Overton, Chair of the CRC Science Panel, stated a subgroup of the Science Panel has been working with Staff looking at alternatives for setback requirements in the inlet hazard area. Illustrations were shown of the DCM proposed structures line (line of adjacent structures that could provide the setback in the inlet hazard area) that is not based on erosion rates or shoreline position. The Science Panel is working with a hybrid vegetation line (the most landward vegetation line from all of the aerial photography) which is the best reference feature. Take the erosion rate within the inlet hazard area, measure along transects drawn perpendicular to the shoreline, and use linear regression plus an indicator of the variation and call this the potential setback line. We acknowledge that the minimum setback would be sixty feet plus the existing vegetation line in the field. We are looking at developing something that has three potential criteria. The Science Panel believes the most landward line represents the hazard of building within the inlet hazard area.

### **Oregon Inlet Terminal Groin Monitoring**

**Dr. Margery Overton**

Dr. Margery Overton, NCSU, stated Oregon Inlet is a dynamic inlet. Photos and surveys were shown which illustrate large changes in shoreline and inlet configuration and land mass that was going on well before the building of the bridge or the terminal groin. Aerial photography was shown from 1949 to 1962 when the bridge was being constructed. In the 1980's there were concerns about erosion. In 1989 the concern was that the inlet was migrating and the Bonner Bridge was in danger. In October 1989 monitoring began because of the construction of the terminal groin. The permit for the terminal groin requires that the shoreline be monitored. Shoreline position from aerial photography was done every two months. The inlet width was also monitored. *(photos and data figures were shown of erosion rates during the monitoring period)*



## **Wind Facility Transmission Lines**

### **Amendments to 7H .0309 Use Standards for Ocean Hazard Areas: Exceptions (CRC 09-15)**

**Doug Huggett**

Doug Huggett, DCM Major Permits Coordinator, stated the Legislature has a Bill in front of them that would amend CAMA to define offshore wind facilities, in either the sounds or oceans out to three miles, as water dependent structures. There are a few technical obstacles in the rules for the permitting of offshore wind facilities. The first is the water dependency issue. In the past we have considered these structures as non-water dependent. If the legislation is passed, it would remove the water dependency issue for permitting purposes. The removal of these obstacles will not limit the environmental review that will take place. The second obstacle is specific to an offshore wind facility placed in the ocean waters. It deals with the transmission lines from these facilities. Current CRC rules require that any structure placed on the beach must be placed behind the appropriate setback line, stable vegetation lines, or in some cases dune lines. We have some exceptions in the rule currently, however under the current rules if someone wanted to bring a transmission line ashore there is not an exception and DCM would have to deny the permit. Staff recommends another exception be placed in the rule to allow transmission lines. (photos of transmission lines were shown) Staff suggests a mechanism to eliminate the technical hurdle which is an addendum to 7H .0309. (rule language provided) Staff would recommend that this language be sent to public hearing.

**Jim Leutze made a motion to send the amendment to 15A NCAC 07H .0309 to public hearing. David Webster seconded the motion. The motion passed with eight votes (Webster, Carter, Wynns, Peele, Bissette, Leutze, Old, Mitchell) and one opposed (Cahoon).**

## **Streamlining of Existing Bridge Replacement GP**

### **15A NCAC 07H .2300 (CRC 09-16)**

**Doug Huggett**

Doug Huggett, DCM Major Permits Coordinator, stated in North Carolina we have a problem with bridges on state maintained roads that are deteriorating and need to be replaced. The NCDOT estimates there are around 4,500 bridges statewide that need replacement. As a response to this and stimulus money available to these projects, a multi-department team effort was undertaken to get these projects planned, permitted and built. The DOT, USACE, Federal Highway Administration, and DENR got together as co-sponsors in an effort to streamline DOT bridge project permitting for low impact bridge projects. Under current practices, from the time DOT identifies a bridge as needing replacement until the new bridge gets constructed it can take from five to seven years. The goal is when the DOT identifies a bridge to cut the time down to one year until completion. The group has developed a set of criteria that the low impact bridges have to meet to be eligible. The group feels that the General Permit needs to be modified to make it more useable for some of these projects. DCM will recommend taking some of the procedural requirements out and increasing some of the wetland limits. A draft proposal has been submitted to the implementation team for bridge streamlining. After this, we will send the draft out to all of the environmental review agencies for comments. We could then bring draft language to the CRC for comments.

**Amendments to 15A NCAC 07H .1704 and .1705  
Temporary Erosion Control Structures – Sandbag GP (CRC 09-14)  
Mike Lopazanski**

Mike Lopazanski, DCM Policy Manager, stated we have made some changes to the general use standards for temporary erosion control structures, but in making the changes we neglected to make the changes to the general permit (7H .1704 and .1705). We have made the changes and it now reads the same as 7H .0308. Staff recommends that these rules be sent to public hearing.

**Renee Cahoon made a motion to send 15A NCAC 07H .1704 and 7H .1705 to public hearing. Veronica Carter seconded the motion. The motion passed unanimously (Cahoon, Webster, Carter, Wynns, Peele, Bisette, Old, Mitchell) (Leutze absent for vote).**

**NC Sea Level Rise Initiatives (CRC 09-22)  
Tancred Miller**

Tancred Miller, DCM Policy Analyst, stated this is a proposed roadmap for addressing sea level rise. There are six major components. The first step will be a ten question on-line survey and will look at the perception of the risk of sea level rise, who should take action, and what actions should be taken. This will show where we should direct our efforts. The next step will be a science forum. This will put the best available science on sea level rise in front of the CRC. The target date will be January 2010. We would like to come up with a planning rate to better respond to sea level rise. This will be a two-day seminar. The third part will be a policy summit and policy development. These will be changes to regulations and land use planning guidelines as well as helping local governments. The fourth step will be recommendations to the Executive Branch. The CRC has a wide charge, but cannot do everything with sea level rise. The CRC can make recommendations as to which other agencies should be engaged. The fifth step will be updating rules. Amendments to the Coastal Management program regulations and land use planning guidelines will give us a comprehensive policy for sea level rise. The last step will be the coordination with state agencies and local government planning efforts in preparing their own plans.

**NCCF Beach Summit Report  
Greg Rudolph, NCCF**

Greg Rudolph, NCCF, stated the beach summit goal was to discuss the emerging threats to the public recreational beach. The goals were to take the focus and identify a coherent set of policy recommendations that are supported by science. The history of beach policy in North Carolina, the influence of state and federal programs, advancements of science and community and economic trends were all used to determine the policy recommendations. The key findings were as follows: current North Carolina beach policies were formulated with the priority of protecting the public recreational beach; many state and federal policies are not coordinated and work at cross purposes with the state's existing priority to protect the public recreational beach; advancements in the scientific understanding of climate, sea-level rise, and the impacts of coastal storms send a clear warning that we are ill prepared to adapt; our ability to predict changes in beaches as a result of these drivers is improving dramatically but this information has not been adequately used to devise a long-term management program; there is a disconnect between short-term and long-term beach management needs as evidenced by community development trends; and protecting the public recreational beaches is compatible with the Coastal Habitat Protection

Plan. Summit participants believe it is time to refocus state and federal oceanfront management policies and programs so they consistently reinforce the goal of protecting public recreational beaches.

The first set of recommendations relate to protection. Ask the NC General Assembly to allow the revised setback rules to go into effect and to enact a Family Beach Act that places limits on high-rise buildings and other forms of high-density development on the oceanfront. This would prevent beach nourishment projects from encouraging increased building densities along the oceanfront. Ask the CRC to amend and seek federal approval of the NC Coastal Management Plan to include a specific policy statement that prevents the loss of sand to the beach system as a result of navigational dredging projects. Ask the CRC and DCM to take the lead in coordinating state and federal programs that protect our public recreational beaches. The next recommendation is to ask the Coastal Resources Commission to strengthen the existing post-disaster reconstruction component found in CAMA plans to include an actionable strategy describing how the public recreational beach will be protected through adaptive management strategies that makes them less vulnerable to future coastal hazards. Ask Congress to direct the National Flood Insurance Program to pay for the relocation of threatened structures before they are claimed by the ocean. Ask the NC General Assembly to enact a program that funds and assigns responsibility for removing orphan buildings from the publically owned beach and to allocate adequate resources to ensure the NC Division of Coastal Management has the capacity to enforce sand compatibility standards for all beach nourishment projects. Ask Congress to change funding formulas for beach nourishment so that they place an equal or greater value on environmental, recreational, and public access benefits versus the current emphasis concerning storm damage reduction for structures, which favors higher building densities. Ask the NC General Assembly to work with local governments to identify additional funding and innovative financing strategies for beach nourishment projects that are consistent with the state's strategy for allocating sand resources under the Beach and Inlet Management Plan. Ask the CRC to ensure the Beach and Inlet Management Plan provides a strategy for allocating sand resources and alternative relocation strategies for those beach communities that don't have adequate sand resources to do beach nourishment.

The second set of recommendations aim at enabling landowners as well as local, state and federal agencies to adapt to sea level rise and storms that will result in the need to remove or relocate buildings and infrastructure and over time will result in significant adjustments to land use patterns along the oceanfront in order to protect public recreational beaches. The first recommendation is to ask the NC General Assembly to mandate and fund operational programs that remove or relocate buildings and infrastructure. Ask Congress to direct National Flood Insurance Program to develop erosion insurance that would help landowners self-finance to protect themselves against financial losses associated with coastal erosion. Ask Congress to fund a joint state and federal adaptation study covering Virginia and North and South Carolina that helps develop relocation and removal strategies using existing authorities of the US Army Corps of Engineers. Request that the NC Division of Emergency Management work with the DCM to plan the five million dollar federally funded study on sea level rise. Ask the CRC to identify counterproductive federal or state programs that encourage intense development along the ocean front and inlet shoreline. Ask the CRC and NC Division of Emergency Management to integrate post-disaster planning requirements with hazard mitigation planning requirements in one plan that includes the latest scientific understanding of sea level rise, erosion, and other coastal hazards. Ask the NC General Assembly to make the CRC the lead entity responsible for coordinating adaptation programs that are designed to relocate and remove land uses that are no longer sustainable. Ask Congress and the NC General Assembly to modify existing programs and develop long-term funding mechanisms to assist communities with adapting to changing

coastal conditions. Ask the NC General Assembly to establish public policy that limits the use of public funds to rebuild or improve substantially damaged public infrastructure and critical facilities located in coastal v-zones following disasters. Ask the NC General Assembly to direct the CRC to develop recommendations for responding to erosion hazards and planning for sea level rise so that the public recreational beach is always protected.

These recommendations must be acted upon quickly. Summit participants warn that piecemeal application of these ideas will increase the likelihood that management efforts will work at cross-purposes and undermine the goal of protecting the beach. The protection of the public recreational beach must remain the clear purpose and outcome of all management decisions along North Carolina's oceanfront. The effective protection of the public recreational beach can only occur by getting out in front of issues and threats and not wait until the beaches are in crisis.

### **PUBLIC COMMENT**

Greg Rudolph, Shore Protection Manager for Carteret County, stated on Monday the County Board of Commissioners approved a letter regarding the Coastal Barrier Resources Act pilot project by the US Fish and Wildlife Service. This Act concerns a remapping project they are conducting and proposing expansion. There are issues of concern that Spencer Rogers and Myself have identified. We have been working with Staff to articulate some of our concerns and hope that the Staff and the CRC will look into this. The comment period ends July 6, 2009.

### **ACTION ITEMS**

#### **Holden Beach LUP (CRC 09-17)**

##### **Ocean Isle Beach LUP (CRC 09-18)**

Mike Christenbury, DCM District Planner, stated the Town of Ocean Isle Beach and the Town of Holden Beach both request certification of their 2009 CAMA land use plans. Ocean Isle Beach held a duly advertised public hearing on May 12, 2009 and Holden Beach held their duly advertised public hearing on May 11, 2009. Both communities adopted their LUP's by resolution. Staff has reviewed both documents and has determined that both documents meet the substantive requirements of the 2002 7B LUP guidelines and there are no conflicts evident with either state or federal law or the state's coastal management program. Staff recommends certification.

**Renee Cahoon made a motion to certify the Holden Beach land use plan. Jerry Old seconded the motion. The motion passed unanimously (Cahoon, Webster, Carter, Wynns, Peele, Bisette, Old, Mitchell) (Leutze absent for vote).**

**Renee Cahoon made a motion to certify the Ocean Isle Beach land use plan. Jerry Old seconded the motion. The motion passed unanimously (Cahoon, Webster, Carter, Wynns, Peele, Bisette, Old, Mitchell) (Leutze absent for vote).**

#### **Brunswick County LUP (CRC 09-21)**

Mike Christenbury stated Brunswick County requests certification of an amendment to their 2007 core land use plan. The Brunswick County commissioners adopted the amendment following a public hearing that was held on May 18, 2009. At the hearing officials from the Town of Belville spoke in favor of this amendment and no individual spoke in opposition to the amendment. The amendment applies only to the Town of Belville's future land use map and future land use map designations. The Town of Belville did participate in the development of

the Brunswick County land use plan and relies on the Brunswick County land use plan for their planning and permitting. Staff has reviewed this amendment and determined that it meets the substantive requirements outlined in the 7B guidelines and that it is consistent with state and federal law as well as the state coastal management program. Staff recommends certification.

**Jerry Old made a motion to approve the Brunswick County land use plan amendment. Veronica Carter seconded the motion. The motion passed unanimously (Cahoon, Webster, Carter, Wynns, Peele, Bissette, Old, Mitchell) (Leutze absent for vote).**

*Chuck Bissette stated that he served on the Carteret County Planning Commission when this land use plan was started in 1999, however it will not affect his participation.*

#### **Carteret County LUP (CRC 09-19)**

Maureen Will, DCM District Planner, stated there is an updated memo (dated 6/24/09) which has been provided to the Commission regarding the Carteret County land use plan. Since the CRC memo dated June 10, 2009, Staff has found reason to amend the recommendation for the Carteret County land use plan after inquiries about how acreages were formulated and how population projections and future land use allocations are linked. It was found that the methodologies and assumptions made do not adequately provide information for Staff to answer these questions. While the information provided may be correct, there is no illustration or documentation as to how the figures were derived or how the tables relate to each other in the future land use map. During the preparation of the plan, the County verbally explained their methodology and assumptions and it was agreed that the information was sufficient, unfortunately the results of these discussions were not reflected in the plan and is not clear to readers of the plan. Staff recommends that the CRC conditionally certify the plan based on the determination that the adequate documentations, descriptions, and identification of assumptions and methodologies have not been identified in the plan.

John Langdon, Carteret County Manager, stated he would ask for a favorable endorsement of the plan. Within the last week an issue was raised about a new and creative interpretation of the 7B guidelines. We were surprised to learn that DCM has changed its recommendation for approval which has existed since 2006. We will address the emerging interpretation of the 7B guidelines and Carteret County looks forward to working with the DCM Staff.

**Chuck Bissette made a motion to conditionally certify the Carteret County land use plan. Bill Peele seconded the motion. The motion passed with five votes (Wynns, Peele, Bissette, Old, Mitchell) and three opposed (Cahoon, Webster, Carter) (Leutze absent for vote). Chairman Emory stated that Carteret County will resolve the issues that have been raised to the satisfaction of the CRC Executive Director and the Executive Director will report to the Commission once it is completed.**

#### **Currituck County LUP (CRC 09-20)**

John Thayer, DCM Senior Planner, stated a conditional certification was recommended for the Currituck County 2006 core land use plan amendment when the initial memo went out to the Commission on June 10, 2009. Since that time, there have been additional conversations with the County. The County made adjustments and clarifications to the Jarvisburg sub-area policy emphasis. These changes cleaned up the internal consistency issue. They also made adjustments to the implementation action statement. Staff recommends certification of the land use plan amendment.

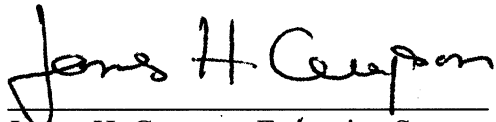
**Jerry Old made a motion to certify the Currituck County land use plan amendment #2. Veronica Carter seconded the motion. The motion passed unanimously (Cahoon, Webster, Carter, Wynns, Peele, Bissette, Old, Mitchell) (Leutze absent for vote).**

**OLD/NEW BUSINESS**

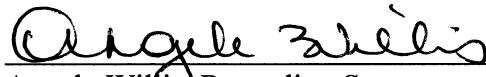
Tancred Miller stated 7H .0308, 7H .1100 with the exception of .1103 which is the fee increase, and 7H .1200 will become effective on July 1.

With no further business, the CRC adjourned.

Respectfully submitted,



James H. Gregson, Exécutive Secretary



Angela Willis, Recording Secretary