

**JOSH STEIN**  
**ATTORNEY GENERAL**



REPLY TO:  
MARY L. LUCASSE  
(919) 716-6962  
[MLUCASSE@NCDOJ.GOV](mailto:MLUCASSE@NCDOJ.GOV)

## Memorandum

To: North Carolina Coastal Resource Commission  
Fr: Mary L Lucasse, Esq.  
Re: Legal Update for February Meeting (**CRC24-02**)  
Date: February 8, 2024

---

### I. NORTH CAROLINA SUPREME COURT

**Batson, Baldwin, and Batson/Baldwin Owners' Association v. CRC (Carteret Co.)** Docket No. 94A22. The Commission appealed the Court of Appeal's decision based on Judge Tyson's dissent. On October 20, 2023, the North Carolina Supreme Court issued its opinion. The members of the Court were equally divided with three members voting to affirm the Court of Appeals decision and three members voting to reverse. Accordingly, the decision of the Court of Appeals stood without precedential value. This COA decision vacated the trial court's award of attorneys' fees and remanded to trial court for further findings. At your direction, DCM Director Braxton Davis, DEQ General Counsel Bill Lane and I entered into settlement negotiations to resolve the case. To avoid the uncertainties, costs and delays associated with further litigation, the Parties entered into a Settlement Agreement. In summary, the parties settled all past and future claims for fees and costs for \$45,050.00 and agreed that the Settlement shall not be construed as an admission of liability by any Party or a determination on the merits of any factual allegations or legal claims in the litigation. The Settlement Agreement has been signed, the payment made, and Plaintiffs have dismissed the litigation with prejudice. I will close my file.

### II. Wake County Superior Court

**CRC v. RRC, File No. 23CV031533.** The CRC requested declaratory judgment against the RRC on issues relating to the RRC's decision not to approve thirty rules readopted and revised by the CRC during its periodic review of rules. The case is ongoing.

**Cedar Point v. CRC, File No. 24CV000121-910.** Plaintiff Cedar Point requests declaratory judgment from the Wake County Superior Court based on its allegation that the CRC abused the emergency rule process and by doing so caused it harm. Specifically, in the Complaint, Cedar Point, a developer, alleged it received CAMA Major Permit No. 79-22 from DCM to begin developing a subdivision, including preparation of individual lots, roads, and stormwater and utility infrastructure on part of the Site located near Bogue Sound in Cedar Point, Carteret County, NC. The developer did not challenge the issuance of the CAMA Permit when it was issued in 2022. The Permit includes Condition No. 1 requiring the developer satisfy the NC Department of Natural and Cultural Resources' requirements, including performing a comprehensive archaeological survey after an initial archaeological survey found significant remains on site. I have been assigned to represent the CRC on the case. The deadline to respond to the complaint is March 11, 2024.

## II. PETITIONS FOR JUDICIAL REVIEW (PJR)

**Petitioners Clifton et. al. (22 CVS 1074) – Carteret Co. Superior Court.** The Commission denied the request of several lot owners in the Beaufort Waterfront RV Park to appeal the permit issued to Collette Properties LLC & Beaufort Waterway RV Park to construct a dock on the waterfront by their lots. The Chair held that the property and contract claims raised were not within DCM, CRC, or OAH's jurisdiction. Petitioners filed a PJR in superior court. An order to stay was filed December 21, 2022 at Petitioner's request to allow time to explore settlement with the permit holder. Those discussions are ongoing.

## III. OFFICE OF ADMINISTRATIVE HEARINGS (OAH) - None

**IV. VARIANCES:** The Shugart variance request was heard at your November meeting and granted with conditions. Attached is the final agency decision. There are no variances scheduled for your February meeting.

## V. REQUESTS BY THIRD PARTIES TO FILE CONTESTED CASES IN OAH:

Following is a review of the outstanding requests:

**Judy Glancy (CMT-23-19)** submitted a request for a hearing to challenge the issuance of GP No. 92406C issued to John and Elva Ellis authorizing construction of an offshore sill within Bouge Sound in Newport, Carteret county, North Carolina. The Chair denied the request based on Petitioner's failure to identify any section of CAMA or the Commission's rules that was violated by the Permit. Since the Petitioner did not file a PJR by December 1, 2023, I will close my file.

**Shipley (CMT23-20)** submitted a request for a hearing to challenge the issuance of a GP authorizing construction of a boat slip in Onslow County, NC. The Chair denied the request as Petitioner failed to identify Commission's rules or sections of the CAMA statute that are inconsistent with the Permit Decision. Petitioner did not appeal the decision. I will close my file.

**Lisa Collison (CMT24-01)** a property owner in the Osprey Community in Duck, NC, submitted a request for a hearing to challenge the issuance of CAMA Major Permit 01-24 to Vesta North Carolina, PB LLC on January 5, 2024 authorizing placement of olivine sand within the shoreline including the Osprey community beach access in Dare County. Petitioner alleges the permit is contrary to 15A NCAC 07H. 0207. The Chair's decision is due on February 23, 2024.

**Paul Mills (CMT24-02)** submitted a request for a hearing to challenge the issuance of CAMA Permit 91628B authorizing construction of a pier and slip in Craven County, NC. Petitioner alleges the construction will impact his ability to navigate. The Chair's decision is due February 29, 2024.

**Brices Creek LLC/Patton (CMT24-03)** submitted a request for a hearing to challenge the issuance of CAMA GP 92997 authorizing construction of a docking facility in Craven County based his claim that any commercial use of the development is prohibited by 07H .1204. The FAD is due March 8, 2024.

**VI. OTHER ISSUES:**

**I have attached summaries of the Commission's final agency decisions for Third Party Hearing Requests and Variances decided in 2023.**

**Cooper v. Berger, File No. 23CV028505-910.** The same day that the EMC moved to dismiss its litigation against the RRC, Plaintiff filed a supplemental Complaint against the EMC seeking a temporary restraining order and preliminary injunction to prevent the EMC from dismissing litigation against the RRC relating to the rule setting a water quality standard for 1,4 dioxane. During a hearing on January 11, 2024, the Honorable Rebecca Holt, Wake County Superior Court Judge presiding granted Plaintiff's request for a temporary restraining order. At a follow-up hearing on January 25, 2024, the Honorable John Dunlow, Wake County Superior Court Judge presiding held that the Court did not have jurisdiction to hear Plaintiff's motion for preliminary injunction. The case is ongoing and a further hearing is scheduled on the merits on February 16, 2024.

**Summary of CAMA 3<sup>rd</sup> Party Hearing Requests – 2023**

<b>20 TPHRs filed on 11 separate permits in 9 Counties</b>	<b>Breakdown:</b> 17 Denied / 0 Granted 1 Withdrawn 2 Moot	<b>Appeal 0 PJR filed.</b>
--	--	----------------------------

<u>Case</u>	<u>Date</u>	<u>Petitioners</u>	<u>County</u>	<u>Granted</u>	<u>OAH/PJR</u>	<u>Summary of Issues</u>
<b>23-01</b>	Feb 13	Dewey and Amy Haizlip	Brunswick	No	<b>No</b>	Petitioners sought to challenge GP 85942D authorizing two finger piers and two boat lifts.
<b>23-02</b>	Mar 18	P.L. Saunders	Dare	No	<b>No</b>	Petitioner sought to challenge permit decision authorizing pool and fence.
<b>23-03</b>	Mar 31	Pecan Grove Yacht Club Marina (Michael Crook Parker Poe)	Pamlico	No	<b>No</b>	Petitioner sought to appeal GP 88175-B for maintenance dredging across from marina.
<b>23-04</b>	Apr 18	Paul Mills	Craven	No	<b>No</b>	Petitioner sought to challenge permit decision authorizing a pier and slips at his neighbor's property alleging interference with navigation.
<b>23-05 to 23-13</b>	June 21	Steve Johnson, Terry Kinslaw, Donald Harris, James Rector, Susan Stone, Daniel Sullivan, Cynthia Parrott, Kevin Lockamy, Kimberly Wheeler,	Brunswick	No	<b>No</b>	9 Petitioners seek to challenge the issuance of CAMA Minor Permit OIB23-17 authorizing construction of two 13 by 138 foot gravel strips along Columbia Street in Town of OIB alleging it violated Town ordinances and CAMA LUP
<b>23-14</b>	July 10	Gerald Jeutter, Jr., Esq.	Carteret	withdrawn	<b>n/a</b>	Petitioner seeks to challenge the issuance of a CAMA Minor Permit 46-23-EI to PDL Beach Properties, LLC to build an oceanfront house.
<b>23-15</b>	July 28	Adams, Stefanowicz, Sininger	New Hanover	No	<b>No</b>	Three petitioners, owners of Apt 1F, 2F, and 3F in the Sun Skipper HOA Town of CB seek to challenge the issuance of 07-23-CB authorizing construction of new 2 <sup>nd</sup> Tier deck with fencing based on lack of notice and impacts to view.

**Summary of CAMA 3<sup>rd</sup> Party Hearing Requests – 2023**

<b>20 TPHRs filed on 11 separate permits in 9 Counties</b>	<b>Breakdown:</b> 17 Denied / 0 Granted 1 Withdrawn 2 Moot	<b>Appeal 0 PJR filed.</b>
--	--	----------------------------

<b>23-16</b>	Aug 18	Gary Brown	Currituck	No		Petitioner seeks to challenge the issuance of M23-14 authorizing construction of a privacy fence along property line in accordance with work plat drawings received July 21, 2023.
<b>23-17</b>	Sept 25	Matthew Cregin	Pender	Moot	<b>No</b>	Petitioner seeks to challenge the issuance of CAMA GP 90200-D authorizing construction of a boatlift and piling at riparian property. Permit holder modified the permit to address the concerns and the challenge was deemed moot.
<b>23-18</b>	Sept 27	Charlie Boise	Pender	Moot	<b>No</b>	Petitioner seeks to challenge the issuance of CAMA GP 90200-D authoring construction of a boatlift and piling at riparian property. Permit Holder modified the permit to address the concerns and challenges and was deemed moot.
<b>23-19</b>	Oct 4	Judy Glancy	Carteret	No	<b>No</b>	Petitioner seeks to challenge the issuance of GP No. 92406C issued to John and Elva Ellis authorizing construction of an offshore sill within Bouge Sound in Newport, Carteret county, North Carolina.
<b>23-20</b>	Nov 27	Robert Shipley, Jr.	Onslow	No	<b>No</b>	Petitioner seeks to challenge the issuance of GP authorizing construction of a boat slip in Onslow County, NC.

**Variance Tally with Issues - 2023**

Revised Feb 2024

<b>Case #</b>	<b>Petitioner</b>	<b>County</b>	<b>Heard at this Meeting</b>	<b>Commission's Decision</b>	<b>Appeal</b>	<b>Issue</b>
<b>22-06</b>	Town of Carolina Beach Noel Fox, Esq.	New Hanover	Feb 23	Granted	No	Construction of bathroom 15A NCAC 07H .0306(a)(9) & .0309(a)
<b>23-01</b>	Town of Ocean Isle Beach (Brian E. Edes, Esq.)	Brunswick	Feb 23	Granted with conditions	No	Sand fencing with hay and straw bales 15A NCAC 07H .0311(c)
<b>23-02</b>	Louis Wetmore	Brunswick	June 2023	Granted with conditions	No	Addition of deck 15A NCAC 07H .0309(a)
<b>23-03</b>	Stephen and Patricia Abdo (Amy Wang, Esq.)	New Hanover	Sept 2023	Withdrawn/ redesigned	No	Setback line -
<b>23-04</b>	North Pier (Todd Roessler, Esq.)	New Hanover	Sept 2023	Granted in part/ denied in part	No	Setback line
<b>23-05</b>	Brian and Susan Shugart (Mousa Alexander, Esq.)	Brunswick	Nov 2023	Granted with conditions	No	Variance from 07H.0208(a)(2)(A) allowing construction of three-slip addition to the existing access pier and platform landward of the Atlantic Intracoastal Waterway setback given no "significant adverse impacts" to PNA.



STATE OF NORTH CAROLINA  
DEPARTMENT OF JUSTICE

JOSH STEIN  
ATTORNEY GENERAL

P.O. Box 629  
RALEIGH, NC 27602

REPLY TO: MARY L. LUCASSE  
ENVIRONMENTAL DIVISION  
TEL: (919) 716-6962  
FAX: (919) 716-6767  
mlucasse @ncdoj.gov

November 21, 2023

**Attorneys for Petitioner:**

Mousa Alshanteer, Esq.  
Alexander Elkan, Esq.  
Brooks Pierce  
P.O. Box 26000  
Greensboro, NC 27420

Electronically:  
malshanteer@BrooksPierce.com  
aelkan@brookspierce.com

**Re: Variance Request / CRC-VR-23-05**

Dear Counsel:

At its November 9, 2023 meeting, the Coastal Resources Commission granted your clients' request for a variance subject to conditions. Attached is a copy of the final agency decision signed by the Chair of the Coastal Resources Commission. Thank you for agreeing to accept electronic service of this decision. Prior to undertaking the development for which a variance was sought, Petitioners must first obtain a CAMA permit issued pursuant to the variance.

If for some reason Petitioners do not agree to the variance as issued, they have the right to appeal the Coastal Resources Commission's decision by filing a petition for judicial review in the superior court as provided in N.C.G.S. § 150B-45 within thirty days after you have been served electronically with the final agency decision. A copy of the judicial review petition must be served on the Coastal Resources Commission's agent for service of process at this address:

William F. Lane, General Counsel  
Dept. of Environmental Quality  
1601 Mail Service Center  
Raleigh, NC 27699-16

If a petition is filed, please send me a courtesy copy by email at the address listed in the letterhead.

If you have any questions, please feel free to contact me.

Sincerely,

Mary L. Lucasse  
Special Deputy Attorney General & Commission Counsel

**Mousa Alshanteer, Esq.**

**Alexander Elkan, Esq.**

**November 21, 203**

**Page 2**

cc: M. Renee Cahoon, electronically  
Christine A. Goebel, Esq. electronically  
Braxton C. Davis, electronically  
Angela Willis, electronically  
Brian and Susan Shugart, electronically  
Dana Lutheran, electronically



STATE OF NORTH CAROLINA	)	BEFORE THE NORTH CAROLINA
	)	COASTAL RESOURCES
COUNTY OF Brunswick	)	COMMISSION
	)	<b>CRC-VR-23-05</b>
	)	
	)	
IN THE MATTER OF:	)	
PETITION FOR VARIANCE	)	<b>FINAL AGENCY DECISION</b>
BY <b>BRIAN AND SUSAN SHUGART</b>	)	

---

On September 27, 2023, Petitioners Brian and Susan Shugart, through their attorneys, submitted a request for a variance from the North Carolina Coastal Resources Commission’s (“Commission”) rule at 15A N.C. Admin. Code 07H.0208(a)(2)(A) allowing them to construct a three-slip addition to the existing access pier and platform, consisting of the installation of two fixed finger piers for access to two proposed boatlifts flanking the existing fixed platform landward of the Atlantic Intracoastal Waterway (AIWW) setback. Petitioners also proposed the installation of a floating platform accessed by a piling-less, dual hinge I-beam gangway from the existing fixed platform and supported by twelve wooden stop legs (collectively, the “Dock Expansion”).

Pursuant to N.C. Gen. Stat. § 113A-120.1 and 15A NCAC 7J .0700, et seq., this matter was heard on oral arguments and facts stipulated to by Petitioners and Respondent Department of Environmental Quality, Division of Coastal Management (“DCM”) at the regularly scheduled meeting of the Commission on November 9 2023 in Beaufort, North Carolina. Assistant General Counsel Christine A. Goebel, Esq. appeared for Respondent DCM. Mousa Alexander, Esq. appeared on behalf of the Petitioners.

When reviewing a petition for a variance, the Commission acts in a quasi-judicial capacity. *Riggings Homeowners, Inc. v. Coastal Resources Com’n*, 228 N.C. App. 630, 652, 747 S.E.2d 301, 314 (2013) (Commission has “judicial authority to rule on variance requests [] ‘reasonably necessary’ to accomplish the Commission’s statutory purpose.”); *see also*

*Application of Rea Const. Co.*, 272 N.C. 715, 718, 158 S.E.2d 887, 890 (1968) (discussing the Board of Adjustment’s quasi-judicial role in allowing variances for permits not otherwise allowed by ordinance). In its role as judge, the Commission “balance[es] competing policy concerns under CAMA’s statutory framework.” *Riggings*, 228 N.C. App. at 649 n.6, 747 S.E.2d at 312.

The Petitioners and Respondent DCM are the parties appearing before the Commission. The parties stipulated to facts and presented relevant documents to the Commission for its consideration. *See*, N.C. Admin. Code 15A 07J .0702(a). If the parties had been unable to reach agreement on the facts considered necessary to address the variance request, the matter would have been forwarded to the North Carolina Office of Administrative Hearings for a full evidentiary hearing to determine the relevant facts before coming to the Commission. *Id.* 07J .0702(d). As in any court, the parties before the decision-maker are responsible for developing and presenting evidence on which a decision is made. If DCM and Petitioners had entered into other stipulated facts, it is possible that the Commission would have reached a different decision. In this case, the record on which the Commission’s final agency decision was made includes the parties’ stipulations of facts, the stipulated exhibits provided to the Commission, and the arguments presented at the hearing.

#### **FACTS STIPULATED TO BY PETITIONERS AND DCM**

1. Brian and Susan Shugart (collectively, the “Shugarts” or “Petitioners”) own property at 2206 East Yacht Drive in Oak Island (the “Property”). Petitioners took title on July 20, 2018 through a General Warranty Deed recorded in the Brunswick County Register of Deeds, Book 4083, Page 721 and provided as a stipulated exhibit.

2. The Property is shown in aerial and ground level photos contained in a

PowerPoint presentation. This is a stipulated exhibit and was shown at the hearing.

3. The Property is developed with an existing seventy-five long access pier with sixteen foot square fixed platform permitted and developed in 2021, a 3,781 square foot three-story house with associated deck and driveway, and a bulkheaded shoreline. A copy of the 2023 tax card is a stipulated exhibit.

4. The Property is adjacent to the AIWW to the north, 2204 East Yacht Drive owned by the Rowells to the west, East Yacht Drive to the south, and NE 23rd Street and then 2302 East Yacht Drive owned by the Fitzpatrick's to the east.

5. At this location, the waters of the AIWW are classified as SA High Quality Waters by the Environmental Management Commission. These waters are closed to the harvest of shellfish by the N.C. Marine Fisheries Commission ("MFC").

6. The MFC has designated these waters as a Primary Nursery Area ("PNA"), which are defined by this Commission in 15A NCAC 7H .0208(a)(4) as "those areas in the estuarine and ocean system where initial post larval development of finfish and crustaceans takes place. They are usually located in the uppermost sections of a system where populations are uniformly early juvenile stages. Primary nursery areas are designated and described by the MFC at 15A NCAC 03R .0130. The PNA designation for this area was made in 1977.

7. In 2007-2008, there was a Department of Environment & Natural Resources (Predecessor to Department of Environmental Quality) workgroup which met to discuss updates to the Docks and Piers CAMA General Permit including impacts to shallow bottom habitat and impacts to Submerged Aquatic Vegetation. This Commission, in revising the rules which were ultimately passed in 2013, included an amendment to 7H .1205(g) which allows DCM to issue permits under this general permit authority for docking facilities in

areas with depths two feet or greater without prior consultation with the Division of Marine Fisheries (“DMF”) or the North Carolina Wildlife Resources Commission. In areas with less than two feet of depth, DCM will consult with the applicable sister-agency and if concerns are raised about habitat impacts, DCM will require the applicant to proceed with a CAMA major permit instead of the general permit.

8. The waters of the AIWW at the Property are Public Trust Areas and Estuarine Waters Areas of Environmental Concern (“AECs”). Along the eastern-most approximately forty feet of the Property’s 120-foot shoreline there are Coastal Wetlands extending approximately thirty-feet from the bulkhead waterward, though no development is proposed in the Coastal Wetlands.

9. Pursuant to N.C.G.S. § 113A-118, any “development” within an AEC (Public Trust Areas and Estuarine Waters AECs) must be authorized by the issuance of a CAMA permit.

10. The Property is located adjacent to the U.S. Army Corps of Engineers (USACE) AIWW. Aerial photographs were provided as stipulated exhibits and are overlain with a USACE GIS layer showing the AIWW channel and the AIWW right-of-way setbacks in the area of the Property. In this area, the red setback lines span 250 feet in width which includes both the eighty-foot rights-of-way and the ninety-foot AIWW channel in the middle. USACE staff confirmed to DCM counsel on October 19, 2023 that in the area of the Property, the setbacks have remained unchanged at eighty-feet on either side of the channel.

11. On November 13, 2013 the Wilmington District of the USACE revised their Wilmington District Setback Policy. A copy of the Wilmington District’s webpage ([saw.usace.army.mil/Missions/Navigation/Setbacks/](http://saw.usace.army.mil/Missions/Navigation/Setbacks/)) describing this policy is a stipulated

exhibit. This policy disallows any hardened or permanently fixed structures within the setback. The policy indicates that if existing structures within the setbacks are destroyed beyond repair, they “will only be replaced in accordance with the current Wilmington District setback policy, as well as any USACE Regulatory and DCM permit requirements.”

12. In the area of the Property, the AIWW is approximately 406 feet wide. This leaves approximately 156 feet of waterbody width (some on the north shoreline and some on the south shoreline including at the Property) outside the 250-foot wide channel/setback areas. The quarter-width of the waterbody at the Property is approximately 102 feet waterward of the bulkhead at the pier. Development proposed by Petitioners does not include any permanently fixed structures within the setback.

13. Boat traffic in the AIWW in the area of the Property is heavy and the area is not designated as a no-wake zone. Due to the presence of the AIWW, the use of the AIWW by large boats and many bulkheads along this shoreline, wave energy is high in the area of the Property.

14. Petitioner Mr. Shugart’s sworn affidavit is a stipulated exhibit. While DCM asserted that it has not determined if the statements are true, it acknowledges that the affidavit is Petitioner’s sworn statement. In the affidavit, Petitioner states that shortly after purchasing the Property, Petitioners were told by the representative of the previous owners of the Property whose name he does not remember, that they would be able to install a dock similar to that of their neighbors at 2204 East Yacht Drive and 2302 East Yacht Drive.

15. Petitioners initially spoke with DCM District Manager Tara MacPherson in 2020-2021. Ms. MacPherson explained that the USACE policy limited fixed structures to outside the setback and the General Permit rules required consultation with DMF when pier

structures would terminate in less water less than two feet in depth when occurring over PNA, submerged aquatic vegetation, or oyster reefs, and usually (but not necessarily) lead to the need for a CAMA Major Permit application.

16. On February 4, 2021, DCM issued CAMA General Permit No. 77634D (“2021 Permit”) to Petitioners authorizing the development of a seventy-five foot long access (no slips) pier and a sixteen foot square fixed, covered platform built up to and not past the USACE AIWW channel setback line. Petitioners developed this permitted structure in 2021. A copy of this permit was provided as a stipulated exhibit.

17. Following the 2021 Permit and pier construction, Petitioners sought approval through a General Permit in May 2022 for extensions with slips, but DMF continued to express concerns about the shallow water depth. Petitioners communicated with the various agencies to try and address stated concerns and proceed with a CAMA General Permit application. On May 9, 2022, DCM Field Representative Patrick Amico emailed Petitioners’ agent that, after review, the request for proposed slips, lifts, and finger piers would need to proceed through the CAMA Major Permit process “[d]ue to resource concerns with the shallow water depths in Primary Nursery Area in the area of proposed constructed features.” A copy of this May 9, 2022 communication was provided to the Commission as a stipulated exhibit.

18. Petitioners proceeded to prepare their major permit application, again consulting with the Agencies, discussing revisions to the proposed development, and having several meetings with various agency staff. DCM staff visited the Property on September 8, 2022 (Ms. MacPherson), November 8, 2022 (Mr. Amico), and November 17, 2022 (Mr. Amico).

19. On August 23, 2022, the Shugarts, through their CAMA agent Dana Lutheran,

submitted a CAMA Major Permit application to DCM for a proposed 3-slip addition to the existing access pier and platform, consisting of the installation of two fourteen-foot by four-foot fixed finger piers for access to two proposed fourteen and one-half-foot by sixteen-foot boatlifts (with six piling each) flanking the existing fixed platform landward of the AIWW setback. Petitioners also proposed the installation of a twenty-two by eight-foot floating platform (without pilings) accessed by a dual hinge I-beam gangway (also without pilings) from the existing fixed platform and supported by twelve eight-inch square wooden stop legs (collectively, the “Dock Expansion”). A copy of the application was provided as a stipulated exhibit. Based on the site plan drawing, which is part of the application, the water depths are -1.2 feet mean low water (“MLW”) at the waterward end of the floating platform with wooden stop legs, and -0.2 feet MLW at the boat lifts. The application was accepted as complete by DCM on November 28, 2022.

20. The Shugarts indicated in their CAMA Major Permit application that the Dock Expansion “will include permanent stops, to keep the structure from resting on the bottom, during low tide,” that “the lifts will be installed so they can only be used in water depths greater than 18 inches...by limiting the length of the cables,” and that “[t]he floating platform will be used for loading and unloading only and will not serve for overnight docking.” DCM acknowledged in its Field Investigation Report that the purpose of the piling-less, dual hinge I-beam gangway from the existing fixed platform “is to provide access to a floating dock that is past the USACE setback line (without driving pilings) and to have the proposed floating dock located in deeper water to potentially lessen resource impacts to shallow bottom habitat.”

21. As required, Petitioners provided notice of the application to the adjacent

riparian owners; specifically, the Rowells at 2204 East Yacht Drive and to the Town of Oak Island (owner of NE 23rd Street). USPS tracking indicates that notice was delivered to the Town on October 19, 2023 and to the Rowells on October 21, 2023. A copy of the certified mail receipts and tracking was provided to the Commission as a stipulated exhibit. DCM did not receive any concerns or objections from these owners during the permit review period.

22. As required, Petitioners posted notice of the permit application on the site. Notice of the application was also published in the Wilmington Star News on December 23, 2022. DCM did not receive any comments about this project from the public.

23. As part of the CAMA Major Permit Process, DCM Field Representative Patrick Amico completed a Field Investigation Report dated December 20, 2022, a copy of which was provided as a stipulated exhibit. This report was sent with the application materials to the other permit reviewing agencies.

24. No coastal wetland or shellfish are observed in the area of the dock expansion. Additionally, Petitioners identified that, based on numerous on-site evaluations, submerged aquatic vegetation does not typically grow within the area of Dock Expansion. To ensure protection of the West Indian manatee, the Shugarts represented that the Dock Expansion would be undertaken between November 1st and May 31st and, if not, that they would adhere to the U.S. Fish and Wildlife Services' guidance on avoiding impacts to the species.

25. On January 26, 2023, the USACE issued Petitioners a permit authorizing the dock expansion including the floating platform which extended waterward of the USACE setback. A copy of the USACE permit is a stipulated exhibit. The USACE indicated it did not have any comment on the Dock Expansion, so long as no pilings are installed waterward of the USACE's Navigational Channel Setback line. Petitioners did not propose any pilings



waterward of that setback. The dock expansion design does not propose the use of any driven pilings for the floating platform and gangway. Petitioners propose the use of wooden stops, installed 18 inches above substrate, to be affixed to the bottom of the floating platform and the use of stops on the boat lifts. The Shugarts indicated in their application that “[t]hese measures ensure that the boat lifts and the floating platform will not rest on the bottom at any time, and that the lifts will not be usable when water depths are less than 18 inches.”

26. On January 30, 2023, DMF sent comments to DCM, wherein it raised concerns about the siting of the Dock Expansion in waters less than 1.0 feet below the normal water level and the potential impact to the shallow bottom fishery habitat and resources. A copy of these comments was provided to the Commission as a stipulated exhibit. Specifically, DMF expressed concerns that the proposed boatlifts would be sited in waters ranging in depth from -0.2' to -0.3' NWL, and that the proposed floating platform would be sited in waters ranging in depth from -0.5' to -1.2' NWL. DMF also expressed concerns that these boat lifts and floating platform in shallow water result in repeated disturbance of the PNA substrate by operation of the boat propellers and the floating platform “repeatedly resting on the bottom.” DMF further provided that “the large floating dock as proposed is a heavy structure” and that “the substrate at this location is muddy” and, therefore, “more susceptible to resuspension of sediment from bottom disturbance.”

27. On February 21, 2023, DWR sent comments to DCM which echoed DMF’s comments in its January 30, 2023 objections to the Dock Expansion with concerns about the potential impact to the shallow bottom habitat. A copy of DWR’s comments was provided to the Commission as a stipulated exhibit.

28. On February 21, 2023, based on the comments from DMF and DWR, DCM

placed the Shugarts' Application on hold in order for Petitioners to respond to DMF and DWR's concerns regarding insufficient water depths and receive from DWR a Water Quality Certification for the Dock Expansion. A copy of DCM's hold letter/email was provided to the Commission as a stipulated exhibit.

29. On February 23, 2023, Petitioners' agent responded to the Agencies' concerns about the potential impact to the shallow bottom fishery habitat and resources from the Dock Expansion, noting that Petitioners addressed their concerns regarding the boat lifts and floating platforms causing repeated disturbance of the substrate by incorporating wooden stops into the design of the Dock Expansion, to be installed 18 inches above the substrate on the boat lifts and the floating platform. Petitioners also proposed that they would perform annual inspections, supported by photos," and submit the information and photos to DCM." Petitioners also agreed to perform any required mitigative work if needed. A copy of this response was provided to the Commission as a stipulated exhibit.

30. On April 18, 2023, DMF relayed to Petitioners' agent that a DEMLR engineer would review the platform with stops design "if your client is willing to work with a structural engineer to draft and sign a design, then we review it, with high probability it [the report] will be accepted." A copy of this email was provided to the Commission as a stipulated exhibit.

31. On April 19, 2023, Petitioners' engineers David L. Winstead and Steven D. Kelly, P.E. at RFTS, PLLC provided the Petitioners' other engineer E. B. Pannkuk, P.E. at Stature Engineering, PLLC, with their estimation of the penetration of the proposed wooden stops supporting the proposed floating platform at the Property, saying that "[f]or the given load and sectional dimensions of the stop, our analysis indicated a predicted penetration for this load and bearing dimension of 0.5 inches." A copy of the letter provided to DCM (and

DMF and DWR) on May 10, 2023 was provided to the Commission as a stipulated exhibit.

32. Further, Petitioners' engineers disagreed with DMF and DWR's characterization of the substrate as "muddy" and alleged that "[t]he soils on which the stops will rest are expected to be medium dense clean fine sands."

33. Petitioners provided photographs of the substrate at the Property taken by Petitioners' agent on August 12, 2022 and March 7, 2023, which are attached with a sworn affidavit as a stipulated exhibit. Petitioners' agent states that she observed that in the area of the proposed Dock Expansion (from the existing access pier to the proposed floating platform), the substrate is sandy, rather than muddy. Specifically, she states that the substrate in the area is comprised of a layer of compacted muck, overlain by a relatively thin sand layer, with sparse shell matter.

34. Petitioners' agent further observed that a substrate of such composition is less susceptible than a muddy substrate to the resuspension of sediment from bottom disturbance.

35. On July 24, 2023, DMF submitted additional comments to DCM, a copy of which was provided to the Commission as a stipulated exhibit. As part of these comments, DMF indicated "if this project is approved, DMF recommends that the proposed floating dock be required to have feet as physical stops."

36. On August 18, 2023, DCM denied the Application as inconsistent with 15A N.C. Admin. Code 07H.0208(a)(2)(A), which states, in part, "that the location, design, and need for development, as well as the construction activities involved shall be consistent with the management objective of the Estuarine and Ocean System AEC" and "shall be sited and designed to avoid significant adverse impacts upon the productivity and biologic integrity of

coastal wetlands, shellfish beds, submerged aquatic vegetation as defined by the Marine Fisheries Commission, and spawning and nursery areas.”

37. Google Earth photographs of the area around the Property overlain with the USACE’s channel and setback line layer were provide to the Commission as stipulated exhibits showing the relative location of piers near the Property and the setback line.

38. The property at 2302 East Yacht Drive received a permit on July 17, 2003, a copy of which was provided to the Commission as a stipulated exhibit. The property at 2302 East Yacht Drive has an existing access pier, connected to a fixed platform connected by a gangway to a floating platform, which appears to extend into the USACE setback based on the Google Earth exhibit.

39. Water depths were shown on the site plan, and Mr. Amico visited the Property and confirmed water depths. Ms. Kim Harding of DMF also visited the Property and found depths similar to those in Mr. Amico’s field report.

40. The property at 2204 East Yacht Drive received a permit on May 3, 1995, a copy of which was provided to the Commission as a stipulated exhibit. It appears to extend into the USACE setback based on the Google Earth exhibit.

41. The property at 2502 East Yacht Drive received CAMA General Permit #38974D in 2004, a copy of which was provided to the Commission as a stipulated exhibit. It appears to extend into the USACE setback based on the Google Earth exhibit.

42. Pursuant to 15A N.C.A.C. 07J.0701(a), Petitioners would have been required to furnish to the Commission proof that a variance was sought from the local government. However, the requirement does not apply since the Town of Oak Island does not have requirements restricting the Dock Expansion.

43. Pursuant to 15A NCAC 07J .0701(c)(6), Petitioners stipulate that the proposed project is inconsistent with the rule from which the Petitioners seek a variance.

44. Pursuant to 15A NCAC 07J .0701(c)(7), Petitioners sent notice of this variance petition to the adjacent riparian owners. The notice to the Town of Oak Island by certified mail was received on September 28, 2023. Notice to the Rowells by certified mail arrived at their local post office and notice was given to them to claim it on pick it up on September 28, 2023. As of October 17, 2023 the letter was unclaimed and is being returned to sender. A second attempt at delivery by UPS was attempted on October 26, 2023, with an expected delivery of October 27, 2023. No comments were received prior to the variance hearing.

**EXHIBITS PROVIDED TO THE COMMISSION BY PETITIONERS AND DCM**

1. Petitioners' variance request
2. General Warranty Deed to Petitioners 4083/721
3. 2023 Tax Card for the Property
4. Copy of USACE website on Wilmington District's Setback Policy
5. Affidavit of Brian Shugart re: seller's representative
6. CAMA General Permit issued February 4, 2021
7. May 9, 2022 email from DCM to P's agent re: major
8. CAMA Major Permit Application materials
9. Notice to adjacent riparian owners including letters, certified receipts, and tracking
10. DCM Field Investigation Report
11. January 26, 2023 USACE Permit
12. DMF January 30, 2023 comments
13. DWR February 21, 2023 comments
14. DCM's February 21, 2023 Hold Letter
15. Petitioners' Agent's February 23, 2023 letter to DCM
16. April 18, 2023 email from DMF to P's agent
17. April 19, 2023 letter from RFTS, PLLX with May 10, 2023 transmittal letter
18. Affidavit of Dana Lutheran with associated photos
19. July 24, 2023 DMF comments
20. August 18, 2023 Denial Letter
21. Google Earth photos with USACE setbacks overlain
22. 2003 Permit for 2302 East Yacht Drive
23. 1995 Permit for 2404 East Yacht Drive
24. 2004 Permit for 2502 East Yacht Drive
25. Notice to adjacent riparian owners of variance petition and tracking

- 26. Powerpoint with ground and aerial photos of the Site and surrounding area
- 27. DCM's Staff Recommendation

**CONCLUSIONS OF LAW**

- 1. The Commission has jurisdiction over the parties and the subject matter.
- 2. All notices for the proceeding were adequate and proper.
- 3. Petitioners have met the requirements in N.C.G.S. § 113A-120.1(a) and 15

NCAC 07J .0703(f) which must be found before a variance can be granted as set forth below.

- a. Strict application of the Commission's Rule will cause unnecessary hardships.**

The Commission affirmatively finds that strict application of 15A N.C. Admin. Code 07H.0208(a)(2)(A) would cause the Petitioners unnecessary hardship. The Commission's rule in 7H .0208(a)(2)(A), which was the basis for denial in this case, states "that the location, design, and need for development, as well as the construction activities involved, shall be consistent with the management objective of the Estuarine and Ocean System AEC . . . and shall be sited and designed to avoid significant adverse impacts upon the productivity and biologic integrity of coastal wetlands, shellfish beds, and submerged aquatic vegetation as defined by the Marine Fisheries Commission, and spawning and nursery areas."

Without the variance, Petitioners would not be able to expand the existing structure to install four fixed finger piers for access to two proposed boatlifts flanking the existing fixed platform, and the installation of a floating platform accessed by a piling-less, dual hinge I-beam gangway from the existing fixed platform and supported by twelve wooden stops (collectively, the "Dock Expansion"). Therefore, the strict application of this rule would cause Petitioners hardship.

The Commission affirmatively finds that Petitioners have shown that the hardship

caused by denying a permit for the proposed development is unnecessary insofar as the proposed design addresses these concerns and monitoring will take place to confirm the effectiveness of the design in avoiding impacts. Moreover, this Commission has at times varied its own pier length limitation rules (quarter-width rule or rate of depth rule) to allow a pier to be lengthened to reach deeper waters and avoid “significant adverse impacts” to PNAs. However, this Commission cannot vary the USACE’s right-of-way setback line.

Specifically, during its review of the permit application, DMF raised concerns that “significant adverse impacts” to shallow bottom PNA habitat will result from the proposed expansion, and their concerns were echoed by the NC Wildlife Resources Commission and NC Division of Water Resources. The two lifts and the use of those lifts along with the floating dock are opportunities for permanent or repetitive impacts to shallow bottom PNA habitat, whereas the impacts from the existing pier and fixed observation platform were limited to the initial pile driving.

Petitioners addressed the Agencies’ concerns regarding the boat lifts and floating platforms causing repeated disturbance of the substrate by incorporating wooden stops into the design of the Dock Expansion, to be installed 18 inches above the substrate on both boat lifts, and affixed to the bottom of the floating platform. “These measures ensure that the boat lifts and the floating platform will not rest on the bottom at any time, and that the lifts are not usable when water depths are less than 18 inches.” To further assuage the Agencies’ concerns, Petitioners agreed that “docking at the floating platform will only take place when loading and unloading.” In addition, the Shugarts agreed to annual inspections, supported by photos, submitted to DCM by December 31st of each year. The monitoring requirement is for the life of the docking facility unless there is a change in circumstances confirmed by

DCM.

In its Recommendation, DCM staff stated that with the proposed design and given the short transit of vessels between the proposed lifts to the adjacent Intracoastal Waterway will result in very limited impacts to the designated PNA. Moreover, the PNA along this shoreline is already impacted by a large number of existing piers and docking facilities. Finally, DCM agrees that a strict application of 7H .0208(a)(2)(A) results in unnecessary hardships for the Petitioners where the proposed docking facilities are unable to extend into deeper water to avoid impacts to shallow waters designated as PNAs due to the USACE designated setback from the federal channel.

The Commission agrees that strict application of its rule will result in unnecessary hardships given that the proposed design for the Dock Expansion will limit impacts to the PNA and the annual monitoring will provide confirmation that the design is working to limit impacts. For these reasons, the Commission affirmatively finds that Petitioners have met the first factor without which a variance cannot be granted.

**b. Petitioners have demonstrated that the hardship results from conditions peculiar to their property.**

The Commission affirmatively finds that Petitioners have demonstrated that the hardship results from conditions peculiar to the property, specifically its location and topography. Namely, the specific area within which the Dock Expansion would be located is a relatively narrow stretch of the Atlantic Intracoastal Waterway, where boat traffic is heavy. The area is not designated as a no-wake zone, and wave action from boat traffic has caused the accumulation of sediment to take place, waterward of the existing bulkhead, resulting in reduced water depths. Moreover, the Shugarts, through their consultant, identified that coastal wetland species, such as smooth cordgrass, may be found under and east of the



existing access pier, but not within the area of the Dock Expansion. Similarly, no shellfish were observed within the area, which is closed to shell fishing. The Agencies' concerns that gave rise to the denial of the Application centered on the water depths in the area of the Dock Expansion. Thus, the peculiar conditions resulting from the wave action from heavy boat traffic in this location, and lack of a no-wake zone designation is particularly consequential.

In its Staff Recommendation, DCM agreed that a hardship to Petitioners is a result from conditions peculiar to the Petitioners' property. Specifically, numerous riparian properties on the north side of Oak Island border the Atlantic Intercoastal Waterway where the waterway is narrow enough to limit pier lengths due to the federal channel setback, and have the same adjacent shallow water designated as PNA extending out to the setback line. However, while not unknown along this particular shoreline, this combination of circumstances is relatively uncommon in comparison with waterfront properties along the coast of North Carolina.

The Commission agrees. Accordingly, the Commission affirmatively finds that Petitioner has demonstrated that this hardship results from conditions peculiar to the property and has met the second factor required for the grant of its request for a variance.

**c. Petitioners have demonstrated that the hardship does not result from their actions.**

The Commission affirmatively finds that Petitioners have demonstrated that the hardship does not result from their actions. Specifically, in their request, Petitioners assert that the hardships result from the strict and imbalanced application of the development orders, rules, or standards issued by the Commission, and conditions peculiar to their Property, as described above. Throughout the entire process, from before construction of the structure presently at the Property to this variance petition, the Shugarts have made a good

faith effort to devise a site plan in line with the existing structures of neighboring properties, to involve the Agencies, and to revise their plans so as to accommodate the Agencies' concerns and to ensure consistency with management objectives.

The denial of the Application by DCM is based upon concerns raised by DMF and, then, DWR as to the siting of the Dock Expansion in waters less than 1.0 feet below the normal water level. Within the area within which the Dock Expansion would be located is a relatively narrow stretch of the Atlantic Intracoastal Waterway, where boat traffic is heavy. The area is not designated as a no-wake zone, and wave action from boat traffic has caused the accumulation of sediment to take place, waterward of the existing bulkhead, resulting in reduced water depths relative to other areas along the waterway.

In its Staff Recommendation, DCM asserts that on balance, any hardships faced by Petitioners do not result from their actions. DCM Staff acknowledges that Petitioners have designed their proposed structures to meet the USACE's setback by proposing a floating dock with "table-top" stops and no driven pilings within the setback as allowed by the USACE. These "table legs" would still impact the bottom during the lower part of the tidal cycle, but less so than if the entire floating dock were resting on the bottom. The proposed boat lifts would include stops designed to prevent vessels and bunks from resting on the bottom at low tide.

For the reasons provided by Petitioners and DCM, the Commission affirmatively finds that Petitioners have demonstrated that they have met the third factor required for a variance.

- d. Petitioners have demonstrated that the requested variance is consistent with the spirit, purpose, and intent of the Commission's rules, will secure public safety and welfare, and will preserve substantial justice.**

The Petitioners have demonstrated that (a) the requested variance is consistent with the spirit, purpose, and intent of the Commission's rules, (b) it will secure public safety and welfare, and (c) it will preserve substantial justice.

The Commission concludes that the requested variance if granted with conditions is consistent with the spirit, purpose, and intent of the Commission's rules. The Commission's rule at 15A N.C. Admin. Code 07H.0208(a)(2)(A) requires "that the location, design, and need for development, as well as the construction activities involved shall be consistent with the management objective of the Estuarine and Ocean System AEC" and "shall be sited and designed to avoid significant adverse impacts upon the productivity and biologic integrity of coastal wetlands, shellfish beds, submerged aquatic vegetation as defined by the Marine Fisheries Commission, and spawning and nursery areas." The management objective of the Estuarine and Ocean System AEC is set forth in 15A N.C. Admin. Code 07H.0203 states, the Commission shall "conserve and manage estuarine waters, coastal wetlands, public trust areas, and estuarine and public trust shorelines, as an interrelated group of AECs, so as to safeguard and perpetuate their biological, social, economic, and aesthetic values and to ensure that development occurring within these AECs . . . [will] minimize the likelihood of significant loss of private property and public resources." Furthermore, it is the objective of the Commission to protect "common-law and statutory public rights of access to the lands and waters of the coastal area."

The requested variance, with conditions, is consistent with the intent, purpose, and spirits of both 15A N.C. Admin. Code 07H.0208(a)(2)(A) and the management objective of the

Estuarine and Ocean System AEC set forth in 15A N.C. Admin. Code 07H.0203 for the following reasons.

First, the requested variance balances protection of the resources within the Public Trust Areas and Estuarine Waters AECs with Petitioners' riparian rights. As conditioned, the variance provides flexibility by allowing the Dock Extension which is designed to include a floating platform, but no pilings, in the USACE setback. In addition, the short distance between the proposed slips and the Intercoastal Waterway limits PNA impacts.

Second, the Petitioners' design using "tabletop" stops on the floating platform and boat slips addresses concerns expressed by DMF, WRC and DWR about impacts to the substrate and is intended to keep this development off the bottom. The annual monitoring plan provides accountability and will alert Petitioners, DCM, and DMF of any impacts resulting from the Dock Expansion. Furthermore, to ensure protection of the only coastal wetland species that may be impacted by the Docks Expansion, the West Indian manatee, the Dock Expansion construction may only be undertaken between November 1 and May 31. If not constructed during that time frame, the Petitioners are required to adhere to the U.S. Fish and Wildlife Service's guidance on avoiding impacts to the species.

Third, a variance from the foregoing regulations subject to conditions, allowing the Dock Expansion would enable the conservation and management of "estuarine waters, coastal wetlands, public trust areas, and estuarine and public trust shorelines," given the required annual inspections, supported by photos, and Petitioners commitment to take mitigative measures for the life of the docking facility to address impacts.

Finally, the grant of a conditioned variance protects the Petitioners' "present common-law and statutory public rights of access to the lands and waters of the coastal area" while

protecting the AEC. Specifically, the Dock Expansion is in keeping with the structures in the area and will be in line with and not oceanward of the immediately adjacent structures on each side of the Property. The Dock Expansion “will include permanent stops” on the boat lifts and floating platform to keep them “from resting on the bottom, during low tide.” *See* Finding of Fact No. 29; February 23, 2023 letter from the Petitioners’ agent to the agencies. In addition, “the lifts will be installed so they can only be used in water depths greater than 18 inches...by limiting the length of the cables,” and that “[t]he floating platform will be used for loading and unloading only and will not serve for overnight docking.” *Id.* The floating dock is located in deeper water to potentially lessen resource impacts to shallow bottom habitat. *Id.* The estimated penetration of the wooden stops supporting the floating platform is only a half inch. *See* Finding of Fact No. 31.

The second assessment to be made is whether the variance proposed by the Petitioners will impact public safety and welfare. The parties submit, and the Commission agrees, that the proposed development will have no adverse effect on public safety and welfare. The modified design and avoidance of pilings in the USACE setback will protect public safety and welfare. The USACE did not have any comment on the Dock Expansion, given that no pilings will be installed waterward of the USACE’s navigational channel setback line. The annual inspection and mitigative measures taken by the Petitioners during the life of the docking facility (assuming the Site conditions are unchanged) will also promote public safety and welfare.

Finally, the Commission agrees that a variance will preserve substantial justice by allowing reasonable riparian access using the modified design while avoiding the USACE setback. The USACE issued the Petitioners a permit authorizing the Dock Expansion on

January 26, 2023. The USACE did not have any comment on the Dock Expansion, given that no pilings will be installed waterward of the USACE's navigational channel setback line. By granting the variance with conditions, the Petitioners are allowed to develop a three-slip structure similar to numerous other docking facilities along the same shoreline. The Commission agrees that this will preserve substantial justice.

\* \* \* \* \*

For these reasons, the Commission affirmatively finds that Petitioner has met the fourth factor required by N.C.G.S. § 113A-120.1(a) as long as the permit for the proposed development includes the condition in the variance granted below.

**ORDER**

THEREFORE, the requested variance from 15A N.C. Admin. Code 07H.0208(a)(2)(A) is GRANTED with the following CONDITIONS:

- (1) To prevent causing repeated disturbance of the substrate, the design of the boat lifts and floating platform shall be as proposed by the Petitioners in their CAMA variance request. Specifically, both the boat lifts and the floating platform will incorporate permanent wooden table top stops installed 18 inches above the substrate, to keep the structures from resting on the bottom during low tide; the length of the cables for the boat lifts will be installed so that the lifts can only be used in water depths greater than 18 inches; and the floating platform will be used for loading and unloading only and will not serve for overnight docking.
- (2) The purpose of the piling-less, dual hinge I-beam gangway from the existing fixed platform is to provide access to a floating dock that is past the USACE setback line (without driving pilings) and to have the proposed floating dock located in deeper water to potentially lessen resource impacts to shallow bottom habitat.
- (2) To ensure protection of the only coastal wetland species that may be impacted by the Docks Expansion, the West

Indian manatee, the Dock Expansion construction may only be undertaken between November 1 and May 31. If not constructed during that time frame, the Petitioners are required to adhere to the U.S. Fish and Wildlife Service's guidance on avoiding impacts to the species.

- (3) To assess impacts, the Petitioners shall provide an annual inspection report, including photographs, to DCM by December 31 of each year. In addition, DCM and DMC will be allowed to access the Site annually for five years in order to inspect the impacts from the Dock Expansion.

The granting of this variance does not relieve the Petitioners of the responsibility for obtaining any other required permits from the proper permitting authority. This variance is based upon the Stipulated Facts set forth above. The Commission reserves the right to reconsider the granting of this variance and to take any appropriate action should it be shown that any of the above Stipulated Facts is not true.

This the 21<sup>st</sup> day of November, 2023.



---

M. Renee Cahoon Chair  
Coastal Resources Commission

**CERTIFICATE OF SERVICE**

This is to certify that I have this day served the foregoing FINAL AGENCY  
DECISION upon the persons listed by the methods indicated below:

**Method of Service**

**Attorneys for Petitioner:**

Mousa Alshanteer  
Alexander Elkan  
Brooks Pierce  
P.O. Box 26000  
Greensboro, NC 27420

Electronically:  
malshanteer@BrooksPierce.com  
aelkan@brookspierce.com

**Petitioners**

Brian and Susan Shugart  
1880 Woodstock Road  
Clemmons, NC 27012

Electronically: briandshugart@yahoo.com

**Petitioners CAMA Agent**

Dana Lutheran  
Southern Environmental Group, Inc.  
5315 South College Road, Suite E  
Wilmington, NC 28412

Electronically: dlutheran@segi.us

**Attorney for NC DCM**

Christine A. Goebel  
Assistant General Counsel  
NC Dep't of Environmental Quality  
217 West Jones Street  
Raleigh, NC 27603

Electronically: Christine.goebel@deq.nc.gov

Braxton C. Davis, DMC Director  
Angela Willis, Assistant to DCM Dir.  
Division of Coastal Management  
400 Commerce Ave.  
Morehead City, NC 28557

Electronically:  
Braxton.Davis@deq.nc.gov  
Angela.Willis@deq.nc.gov



Courtney Milliron, CAMA LPO  
Town of Oak Island  
4601 E. Oak Island Dr.  
Oak Island, NC 28465

Electronically: [cmilliron@oakislandnc.gov](mailto:cmilliron@oakislandnc.gov).

This the 21<sup>st</sup> day of November, 20223.

A handwritten signature in blue ink that reads "Mary L. Lucasse". The signature is written in a cursive style with a horizontal line underneath it.

---

Mary L. Lucasse  
Special Deputy Attorney General & Commission Counsel  
N.C. Department of Justice  
P.O. Box 629  
Raleigh, N. C. 27602