

**NC COASTAL RESOURCES COMMISSION (CRC)**

**September 15, 2021**

**Video Conference**

**Present CRC Members**

Renee Cahoon, Chair

Larry Baldwin, Vice-Chair

Robin Smith, Second Vice-Chair

Neal Andrew

Craig Bromby

Trace Cooper

Bob Emory

Robert High

Doug Medlin

Lauren Salter

Angie Wills

**Present from the Office of the Attorney General**

Mary L. Lucasse

**Present from the Department of Environmental Quality, Office of the General Counsel**

Christine A. Goebel

**CALL TO ORDER/ROLL CALL**

Renee Cahoon called the meeting to order at 9:00 a.m. on September 15, 2021, reminding the Commissioners of the need to state any conflicts due to Executive Order Number 34 and the State Government Ethics Act. The State Government Ethics Act mandates that at the beginning of each meeting the Chair remind all members of their duty to avoid conflicts of interest and inquire as to whether any member knows of a conflict of interest or potential conflict with respect to matters to come before the Commission. The Chair requested that if any member knows of a conflict of interest or a potential conflict of interest, they so state when the roll is called. Commissioners Norris and Tunnell were absent. No conflicts were reported. Based upon this roll call Chair Cahoon declared a quorum.

**CHAIR'S COMMENTS**

Chair Cahoon stated Commissioner Tunnell is not able to attend today as broadband connectivity is spotty in Hyde County. A special thanks to Commissioners Emory and Baldwin for representing the Commission on the Coastal Habitat Protection Plan (CHPP). Lastly, we would like to recognize and welcome Elizabeth Biser, the new DEQ Secretary.

**MINUTES**

**Larry Baldwin made a motion to approve the minutes of the June 16, 2021, Coastal Resources Commission meeting. Trace Cooper seconded the motion. The motion passed unanimously (Cahoon, Andrew, Baldwin, Bromby, Cooper, Emory, High, Medlin, Slater, Smith, Wills).**

## **EXECUTIVE SECRETARY'S REPORT**

DCM Director Braxton Davis gave the following report:

We appreciate your continued patience with the virtual meeting format – and please feel free to interrupt me anytime and use the “raise hand” feature to let us know you want to weigh in. We want to make sure we have your input on the rules, and we don’t want to rush through anything given the challenges associated with virtual/online meetings. I’ll start with a quick legislative update. I understand that Senate Bill 389, which is based on recommended legislative changes submitted by the NC Department of Environmental Quality and NC Dept of Natural and Cultural Resources, has been passed out of the General Assembly and is on the Governor’s desk. In it are three provisions we submitted. First, changes to the Public Access program to align CAMA and the Commission’s rules regarding the disposition of properties purchased with state access funds. Second, a removal of an outdated provision for notification of DCM permit actions by mail to an interested parties list. Last is an extension of the deadline for the Chair to make a decision on a third party appeal from 15 days to 30 days from the date filed.

On the regulatory side of DCM, we recently permitted beach nourishment projects for the Towns of Kill Devil Hills and Duck, with Southern Shores and Kitty Hawk anticipated to soon follow. Proposed nourishment projects for Buxton and Avon are also in process and have been distributed for interagency reviews. We have recently begun review of a nourishment project for Nags Head. The Dare County nourishment projects are planned for summer 2022. We also have an application from the Town of North Topsail Beach to conduct a truck haul nourishment project, which is planned to start this upcoming winter. As an example of a non-beachfront CAMA Major Permit issued since the last meeting, I’ll highlight the Beacon Street/Moss East project in the City of Washington. A CAMA Major permit was issued on September 2 for a 50-lot subdivision, with 1,100 feet of bulkhead and a 51-slip residential marina consisting of 4 piers. This project received some comments and concerns from the Wildlife Resources Commission related to habitat for anadromous fish, and our major permit staff worked with the applicant and the WRC to come up with a plan that allowed the project to move forward while still protecting important habitat. DCM staff are participating in the NC12 Task Force that is being led by Dare County, NCDOT and the National Park Service to develop long-term plans and evaluate alternatives to address a series of hot spots along Highway 12 that are continually subjected to erosion and ocean overwash. Jonathan Howell and I were able to attend a meeting and field trip to visit each of the hotspots back in July, and DCM stands ready to assist in any way that we can.

### **Federal Consistency**

On July 21, DCM received a Federal Consistency Determination from the Wilmington District of the Army Corps of Engineers to reauthorize 12 Regional General Permits. Corps Regional General Permits are issued for specific geographic areas, and each Regional General Permit has specific terms and conditions. In North Carolina, Regional General Permits are drafted to be consistent to the maximum extent practicable with DCM’s general permits and Major Permit process to create a streamlined permitting process. This process allows DCM to serve as the lead permitting agency with streamlined coordination with the Corps on many major coastal projects. DCM is currently reviewing the proposed changes and updates to ensure consistency with DCM’s general permits and Major Permit process. On August 5, DCM received a Federal Consistency Certification from Avangrid Renewables regarding their Construction and Operation Plan (COP) for an offshore wind facility within the Kitty Hawk Wind Energy Area.

The COP has been submitted to BOEM for approval, and after discussions with NOAA's Office for Coastal Management, we learned that DCM can ask for a "stay agreement" with the applicant to initiate the federal consistency review after the conclusion of BOEM's Draft Environmental Impact Statement so that the State will have the relevant information from that analysis. DCM is currently in contact with Avangrid to negotiate a Stay Agreement for that purpose. Finally, the Southern Environmental Law Center filed a lawsuit on August 4, claiming the Corps violated the National Environmental Policy Act and the Administrative Procedure Act by arbitrarily reversing agency policy and failing to prepare an Environmental Impact Statement for the proposed elimination of environmental windows for the federal shipping channels for the two NC State Ports. SELC is seeking a court order to prevent the Corps from proceeding with year-round hopper dredging unless and until the Corps conducts a review under the National Environmental Policy Act. The Corps has a deadline of October 8 for an initial response.

### **POLICY & PLANNING**

The Division received one land use plan amendment request since your last meeting. The Town of Morehead City submitted a LUP amendment for certification and the Division found that the amendment met the substantive requirements outlined within your 7B Land Use Planning Requirements, that there are no conflicts evident with either state or federal law or the State's Coastal Management Program; and that the elected body of the local government provided opportunity for the public to provide written comment following local adoption of the plan. For these reasons, the request for certification of the land use plan action was granted. Local government work under the Resilient Coastal Communities Program is officially underway. Effective August 11, DCM entered into contracts with nine firms and the Mid-East Commission to work with the 26 communities receiving assistance this year. The contracts total \$705,000, with most communities receiving technical assistance valued at \$30,000. Work has begun in assembling citizen stakeholder groups, compiling data for vulnerability assessments, and conducting public outreach. Staff has been very encouraged by the high levels of interest and participation seen among the communities and the contractors, and all feedback to date has been constructive and supportive. We would like to acknowledge the strong support from NC Emergency Management's Floodplain Mapping Program and NCDOT in providing data and technical assistance for the vulnerability assessments, and we remain grateful for our ongoing partnerships with NCORR, NC Sea Grant and The Nature Conservancy. As I mentioned at our last meeting, DCM submitted a proposal to the NFWF National Coastal Resilience Fund for an additional \$550,000 to fund more communities through the RCCP. We are awaiting a decision on that application. We are also tracking the state budget process, which may include additional funding and a permanent staff position for the RCCP.

### **Coastal Reserve**

The public comment period for proposed changes to rules related to the NC Coastal Reserve, 15A NCAC 070 closed earlier this week. We received one written public comment with several suggestions, and I'd be happy to share that with anyone interested as we work through the suggested changes, which are generally minor. The public hearing was held virtually on August 26, and we received no comments at the hearing. I think the lack of comments reflects the extensive coordination we had with Local Advisory Committees and partners throughout the rule development process. These amendments satisfy the Legislative Periodic Review process requirements, and address priority updates to existing rules and address issues and gaps. The next steps include the Department's adoption of the rules and approval by the Rules Review

Commission. The proposed effective date is November 1, 2021. To continue to promote the use of living shorelines, the Coastal Training Program hosted a virtual training for real estate professionals on September 2. Participants learned about the benefits and limitations of using living shorelines for erosion control, different shoreline stabilization techniques, the living shoreline permitting process, use of marsh plants and oyster shell to prevent erosion, and existing living shoreline projects in NC. The virtual training was recently certified by the NC Real Estate Commission and participating real estate professionals received 4 elective continuing education credits. The virtual training compliments in-person trainings offered prior to the pandemic and demand is high – a second offering has been added to the schedule for September 30. The Reserve recently received funding from NOAA’s National Estuarine Research Reserve System to update and improve its on-site research and public access infrastructure. Federal funds in the amount of \$277,100 are being matched through Public Access Grant funds for the Currituck Banks Reserve boardwalk refurbishment and will also be used to design and construct storm-resilient research platforms to support the Reserve’s implementation of the System-wide Monitoring Program. The funding will also be used to develop and install interpretive signage at the Currituck Banks and Masonboro Island Reserves.

### **Staffing News**

In staffing news, our Resilience Coordinator Samantha Burdick has accepted a permanent position as the Town Planner for the Town of Beaufort. Sam was instrumental in getting the RCCP off the ground and we wish her the best in her new role. We are currently working to fill her position. We are happy to introduce Cameron Luck, our new Assistant Major Permit Coordinator in the Morehead City office. Cameron will be working the southern half of the CAMA counties. Cameron comes to us from the Division of Marine Fisheries where he served as the Artificial Reef coordinator in Morehead City. Cameron has been with the state for 3 years and we look forward to him joining our regulatory program in the Morehead office. Finally, I am proud to share that our own Dr. Brandon Puckett received the North Carolina Coastal Federation’s Pelican Award. Brandon was recognized for leadership and expert scientific research advancing coastal restoration. Brandon’s research has helped build a foundation for hundreds of acres of new oyster sanctuary in Pamlico Sound, a better understanding of marsh resiliency, and has helped advance water quality protection efforts in the state. Congratulations to Brandon for this well-deserved recognition.

### **CRAC REPORT**

Spencer Rogers stated Greg Rudolph sends his regrets that he could not attend. The Council met virtually and discussed building code issues that had been delayed since the last CRAC meeting. This discussion was centered around our internal committee’s work on conflicts between CAMA regulations, building codes, and flood plain ordinances. Mike Lopazanski gave a presentation reviewing CRC actions that had taken place since the last CRAC meeting. Lastly, we had a presentation on the CHPP, and the Commission will see a similar presentation on today’s agenda.

### **VARIANCES**

**Sanders (CRC-VR 21-03), Topsail Beach, Oceanfront Setback**

**Christine Goebel, Esq., Tara MacPherson/Karen Sanders, Pro se**

DCM District Manager Tara MacPherson gave an overview of the site. Christine Goebel stated Karen Sanders is present and will represent herself. Petitioner owns a residence at 705 N.

Anderson Blvd. in the Town of Topsail Beach. The property is located within the Commission's Ocean Hazard Area of Environmental Concern ("AEC"). In June of 2021, Petitioner filed a CAMA Minor Permit application seeking to convert her streetside roofed porch and unconditioned utility closet/laundry into conditioned Total Floor Area on her one-story home. On July 22, 2021, DCM denied Petitioner's CAMA Minor Permit application as the proposed addition does not meet the applicable setback rules from the vegetation line. While the porch proposed to be enclosed is landward of the 60' setback, the Commission's rules prohibit enlargements to non-conforming structures. On July 27, 2021, Petitioner filed this variance petition to request the Commission vary the oceanfront setback rules so she can develop the 92.5 square foot addition as proposed. Ms. Goebel reviewed the stipulated facts in this variance request and stated Staff and Petitioner agree on two of the four statutory criteria which must be met in order to grant the variance.

**Larry Baldwin made a motion that strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships. Neal Andrew seconded the motion. The motion passed unanimously (Cahoon, Andrew, Baldwin, Bromby, Cooper, Emory, High, Medlin, Salter, Smith, Wills).**

**Larry Baldwin made a motion that hardships result from conditions peculiar to the petitioner's property such as location, size, or topography of the property. Neal Andrew seconded the motion. The motion passed with eight votes in favor (Cahoon, Andrew, Baldwin, Emory High, Medlin, Smith, Wills) and three opposed (Bromby, Cooper, Salter).**

**Larry Baldwin made a motion that hardships do not result from the actions taken by the Petitioner. Robert High seconded the motion. The motion passed with ten votes in favor (Cahoon, Andrew, Baldwin, Cooper, Emory, High, Medlin, Salter, Smith, Wills) and one opposed (Bromby).**

**Larry Baldwin made a motion that the variance requested by the petitioner is consistent with the spirit, purpose, and intent of the rules, standards, or orders issued by the Commission; will secure public safety and welfare; and will preserve substantial justice. Doug Medlin seconded the motion. The motion passed unanimously (Cahoon, Andrew, Baldwin, Bromby, Cooper, Emory, High, Medlin, Salter, Smith, Wills).**

This variance request was granted.

### **RULE INTERPRETATIONS**

#### **Use of Artificial Turf Grass in the Buffer (CRC 21-24)**

#### **Robb Mairs, DCM LPO Coordinator**

Robb Mairs stated the topic of artificial turf grass installation has suddenly emerged for our program, and with no standards that specifically apply to this material, we are presently working through the appropriate next steps in several cases within the Coastal Shoreline Area of Environmental Concern and within the associated 30' shoreline buffer. Once staff gets guidance from the commission, we intend to reach out to the LPOs, coastal landscape architects and engineering firms to help communicate with coastal property owners about permitting requirements and best practices for these types of installations. A slide was shown depicting a

typical cross section of the underlayment associated with the installation of turf grass such as infill, filter fabric, stone, and soil. The turfgrass is secured with landscape nails. Plastic fiber soils made of polymer may be used to reinforce the soil to increase load bearing capabilities for heavy machinery such as emergency vehicles. DCM staff have been working directly with the State Stormwater Section in the Wilmington Regional Office for their assistance in determining whether this material, as installed, would be deemed as pervious or impervious if located within our Coastal Shoreline Area of Environmental Concern and the associated 30' buffer under our current rules 07H .0209. The DCM has also reached out to other interested resource agencies including the DWR, DMF, WRC, and the USACE to identify any concerns they may have with turf grass and additionally, the underlayment such as the microplastics that were placed within the soils prior to the installation of the turf grass, and turf infill that could potentially enter the adjacent surface waters. The CRC's rules currently restrict development within the 30-foot buffer to water-dependent uses which are typically docks, piers, boat ramps, bulkheads and accessways. There are also exceptions for limited non-water dependent uses which include pile supported signs; elevated, slatted wooden boardwalks; crab sheddars; decks/observation decks; grading, excavation, and landscaping with no wetland fill except when required by a permitted shoreline stabilization project. With the implementation of the buffer rules, the CRC considered a wide range of uses and was consistent in not allowing non-water dependent uses. The buffer was identified as crucial to water quality in filtering contaminants from runoff, infiltration, stabilizing soil, slowing flood waters, and preserving natural character at the shoreline. Since the rules were implemented, there have been advances in technology that address stormwater runoff associated with traditional impervious surfaces. The use of pervious pavement, pavers and associated installation requirements have been promoted by various institutions and the Division of Energy, Minerals and Land Resources' Stormwater Design Manual includes specifications for construction of "hard" surfaces that capture stormwater through voids in the materials surfaces. Staff from DWR responded that the Tar-Pamlico and Neuse River buffer rules do not include turf grass in their respective Table of Uses and that the material would appear to contradict the intent of the rule to preserve buffer function for nutrient removal. DWR staff expressed concerns with the potential for these small plastic fibers, and rubber or silica beads, to enter nearby receiving waters and potentially lead to water quality standards violations. Under these rules as well as Session Law 2008-211, there would be options for artificial turf to be allowed within a vegetated setback if stormwater from the entire project is collected and treated prior to discharge. Artificial turf could be designed to meet the minimum design criteria provided in 15A NCAC 02H .1050 and .1055. State Stormwater staff responded that this approach is not recommended because there is a high likelihood of maintenance problems. There are some local level buffer developments codes. One example of a local level ordinance is within New Hanover County's Conservation Overlay District (COD) that comes into play. These vegetated setbacks are pulled from the upper limits of the resource, which for projects within our coastal shoreline AEC would be coastal wetlands. If applicable the COD vegetative buffer would be 75' landward from the upper limits of coastal wetlands for residential use, and up to 100' for commercial use. To retain the effectiveness of the 30' buffer in filtering runoff, Staff request that the Commission confirm DCM's interpretation that the application of artificial turf within an Area of Environmental Concern requires a CAMA permit, and that it is not allowable under the landscaping exception to the 30' buffer at 15A NCAC 07H.0209(d)(10)(G). While DCM can permit this material within the 75' or 575' AEC, it may be deemed as impervious surface based on a case-by-case review

and therefore count toward the maximum allowable impervious surface coverage depending on installation methods and materials, and any existing impervious surfaces.

**Bob Emory made a motion to agree with Staff's interpretation that artificial turf grass requires a CAMA permit and that it is not considered landscaping and not allowed within the buffer. Lauren Salter seconded the motion. The motion passed with ten votes in favor (Cahoon, Andrew, Bromby, Cooper, Emory, High, Medlin, Salter, Smith, Wills) and one opposed (Baldwin).**

### **Static Line Exceptions (CRC 21-25)**

#### **Tancred Miller**

Tancred Miller stated in 2009 the rule was established allowing this measurement line to be used in conjunction with a large-scale beach fill project as a setback line for development. For communities with beach and inlet management plans, the Commission wanted to offer an incentive to continue with long-term plans. The static line exception offers communities the opportunity to use the actual vegetation line. Recently there have been implementation issues that staff would like to get the Commission's input on. Staff proposes to add any amendments into the beach management plan rules that will be presented to the Commission in November. The first issue is with 7H .0306(a)(12) where it states: "In order to allow for development landward of the large-scale beach fill project that cannot meet the setback requirements from the static vegetation line, but can or has the potential to meet the setback requirements from the vegetation line set forth in Subparagraphs (a)(1) and (a)(5) of this Rule, a local government, group of local governments involved in a regional beach fill project, or qualified "owners' association".... may petition the Coastal Resources Commission for a "static line exception" in accordance with 15A NCAC 07J .1200." This has been interpreted by at least one local government to mean that if a proposed development can meet the oceanfront setback from a community's static vegetation line, that it must do so, even if the community has a static line exception. Staff would like the Commission to clarify whether this is the Commission's interpretation. If not, amending the preamble by striking the first sentence can remove the ambiguity. The second issue is 7H. 0306(a)(12)(C) which prohibits any portion of a structure from extending farther oceanward than the landward-most adjacent building or structure. This provision presents four implementation issues. DCM has defined "adjacent" in the Adjacent Riparian Property Owner Notification for Minor Permits (updated July 2021) as "a property that shares a boundary line with the site of proposed development." If no adjacent structures exist, the proposed development would be sited in accordance with the "average line of construction" identified by the DCM director. Unless the Commission directs otherwise, staff will use this definition in the determination of landward-most adjacent. The current rule specifically provides for the Division of Coastal Management to determine an "average line of construction" on a case-by-case basis. Should LPO's have this authority also? Staff prefers that the DCM Director be the only individual authorized to make this call. In addition, Staff proposes that the average line of construction be based on an approximation of the average seaward-most positions of the rooflines of adjacent structures along the same shoreline and extending 500 feet in either direction. To prevent gazebos, boardwalks, sheds, pools, and other types of accessory structures from being treated as an adjacent building or structure, staff proposes that only habitable structures of any size be used for measurement. If no structures exist within 500 feet in either direction, the proposed structure will need to meet the applicable setback from the Vegetation

Line but would not be held to the landward-most adjacent structure or an average line of structures. Another question is from what part of an adjacent building or structure should the "landward-most" standard apply? Staff proposes that this be the most oceanward point of the building or structure's roof line, including roofed decks, but not the 500 square feet of uncovered decked, allowed as an exception in 7H .0309. Another issue arises under 7H. 0306(a)(12)(D) which authorizes, with the exception of swimming pools, that the development exceptions in 7H .0309(a) be located oceanward of the static vegetation line. This rule is silent on whether those types of development can be placed oceanward of the landward-most adjacent building or structure. Staff recommends that all .0309(a) exceptions, except swimming pools, be allowed seaward of the landward-most adjacent structure under the static line exception. Staff is seeking feedback from the Commission but is not recommending action today. All proposed amendments will be included in the proposed Beach Management Plan rules to be presented in November.

By consensus, the Commission approved staff's interpretations and recommendations. Staff will provide rule amendments to the beach plan rules at the November CRC meeting.

### **Public Beach and Coastal Waterfront Access Grant Program & Parking Fees (CRC 21-26)**

#### **Mike Lopazanski**

Mike Lopazanski stated CRC rules have allowed local governments to collect parking fees at sites funded by the Access Program for the past 20 years, provided that the fees are used exclusively for the operation and maintenance of access facilities. The allowable uses of fee revenues were expanded in 2007 to include the acquisition or development of new access facilities. Also in 2007, a provision was added to require biannual reporting on the use of fees to the Division. There was no consequence for not reporting and some reporting was inconsistent. Amendments are being proposed to allow local government to post their collection of fees and use of fees. The decision to charge a fee is a local issue. Not all access sites are state funded. For example, New Hanover County has approximately 94 access sites, but only 26 of them are DCM supported. During discussion at a previous meeting, the question came up about whether local governments could use parking fees to supplement funding for beach nourishment. In amendments to 7M .0310 the Commission added the word "enhancements". Staff interprets enhancements to mean any of the usual amenities that would accompany an access site such as restrooms, picnic tables, gazebos, etc. New Hanover County cited NCGS 160A-301 which address on and off-street parking locally. This Statute allow the County to use on street parking fees to defray the costs of traffic and parking ordinances and allows the use of off-street parking fees to be used for any public purpose. Wrightsville Beach also cited Session Law 98-96 which allows the use of all fees to be used for any public purpose. During the last meeting, Commissioner Robin Smith offered to review the General Statutes and Session Laws relating to the use of fees within the context of public access facilities. Her analysis of CAMA and current CRC rules was attached to CRC 21-26 and provided to the Commission.

Commissioner Smith stated the current rules as written only apply to public access facilities that have been acquired or improved with State Access Grant Funds. When a local government receives a grant, the agreement includes a condition that fees are only to be used exclusively for acquiring, improving, or enhancing access sites. The CAMA provisions clearly state the funds are for public access to the beach and public trust waters but does not allow for enhancement of the beach or beach nourishment. New Hanover County raises the questions of whether NCGS



160A-301 conflicts with the general authority in CAMA which restricts use of parking fees for state funded access facilities. The Legislature has given local governments broad authority to use parking fees from municipal-owned or leased facilities for off street parking for any public purpose. As explained in the memo, the interpretation of public access provisions in CAMA and public access the CRC rules means access across upland property to reach the beach or public trust waters. The current rule limits the use of user fees at state-funded public access facilities to operation and maintenance of public access facilities and does not cover other general operation maintenance needs of the local government. The current rule falls within the CRC's authority to ensure that state-funded public access facilities are operated and maintained for public access and does not conflict with the more general authority of local governments to use fees from other municipally owned or leased parking sites.

Neal Andrew commented that he has a different interpretation. When people go to the beach to walk, swim and surf and there isn't any sand at the public accesses, then why go to access sites? Sand is an amenity just like lifeguards and trash cans. All funds and sources should go toward waterway management and beach nourishment.

Trace Cooper commented that this can be interpreted in different ways, but the CRC should revisit this during rulemaking. Operations, maintenance, and enhancements could be interpreted to use parking fees for fire and EMS services. The burden on Towns to have access sites is significant and fee use should not be limited.

Commissioner Smith stated the CRC should discuss the use of fees and consider rulemaking but agrees with the staff's interpretation of limited use of fees for maintenance and enhancements. Staff should bring back clear wording on the use of fees in rule amendments in November.

**Robin Smith made a motion to approve the interpretation of 15A NCAC 07M .0310 as it's currently being applied. Bob Emory seconded the motion. The motion passed with seven votes in favor (Cahoon, Baldwin, Bromby, Emory, Salter, Smith, Wills) and two opposed (Andrew, Cooper).**

### CAMA LAND USE PLANS

#### **Amendments to 15A NCAC 7B CAMA Land Use Plans – Enforceable Policies (CRC 21-27)**

##### **Tancred Miller**

Tancred Miller stated in June the CRC heard a presentation on the lack of clearly defined enforceable policies within Land Use Plans. Staff is looking for guidance on clarifying language. Definitions have been added to 7B .0702. Clear enforceable policies will ensure that DCM staff use a Land Use Plan in the way that the local government wants its plan to be used during permit review. Staff does not believe local governments should be required to update their Land Use Plan once these policies have been identified. If the plan is not update, DCM will only be able to enforce unambiguous policies. During the certification process, there are three options for the local government to choose from regarding implementation: they can select local administration of the plan and review their own CAMA permit applications; there is a joint administration option where the local government and DCM both review the permit applications, but with the local government identifying the enforceable policies; the third option for DCM administration is being removed as it is redundant.

The NC Homebuilders Association submitted comments on these proposed amendments. DCM would like counsel to review the comments prior to making any additional amendments and will bring recommendations back to the CRC for review in November.

### **PUBLIC INPUT AND COMMENT**

**Chris Matteo** provided industry input from the NC Shellfish Growers Association regarding shellfish farming barge recommendations and provided responses to DCM staff recommendations. (written comments provided)

**Chris Millis**, NC Homebuilders Association, provided comments on CRC Memo 21-27 Amendments to 7B CAMA Land Use Plan Enforceable Policies. (written comments provided)

**Leda Cunningham**, Pew Charitable Trust, spoke in favor of the CRC approving the CHPP for public comment. (written comment provided)

**Layton Bedsole**, New Hanover County staff, provided comments regarding the interpretation of amenities at public accesses. (written comments provided)

**Ryan Bethea**, oyster farmer in NC with an oyster lease in Back Sound, provided comments in support of the CRC approving the CHPP for public comment. (written comments provided)

### **INLET HAZARD AREAS**

#### **General Permit for Beach Bulldozing & Inlet Hazard Areas (CRC 21-28)**

##### **Ken Richardson, Shoreline Management Specialist**

Ken Richardson stated, given the expansion of the proposed Inlet Hazard Area boundaries at specific inlets, concerns and comments were raised during IHA public hearings and workshops, with regards to dune restoration inside an IHA and how the new boundaries would affect the ability to utilize General Permit for beach bulldozing. He briefly reviewed the rules to understand why these questions were asked, and also provide rule amendments for the Commission to consider that may help in clarifying and alleviating concerns on this issue. Beach bulldozing is a method of oceanfront erosion management within the Ocean Hazard Area of Environmental Concern that moves beach sand from areas seaward of the first line of stable and natural vegetation to repair or stabilize an existing dune damaged by erosion, or to create a protective berm for an imminently threatened structure and can be authorized through the CAMA permit process. A CAMA General Permit 15A NCAC 07H.1800 is available to individual property owners and authorizes the bulldozing of sand from the beach area between Mean Low Water Line and the FLSNV within the Ocean Hazard Area of Environmental Concern but does not apply within the boundaries of a designated Inlet Hazard AEC. As you are aware, General Permits have standards associated with them. 15A NCAC 07H. 2500 authorizes emergency general permits, however, all projects authorized under the 07H .2500 must also conform to the specific standards in other General Permits to include 07H.1800, thus not allowing this activity inside an IHA. 15A NCAC 07H.0308 Specific Use Standards in Ocean Hazard Areas sub-section (b) addresses dune establishment and stabilization and goes on state that “no new dunes shall be created in inlet hazard areas.” “New” is different from restore or repair. For rule purposes “new” means creation of a dune that was not there before, while restore and repair addresses stabilization or restoration of an existing dune. Currently, restore and repair is allowed inside an IHA; however, it is not always clear to the rule interpreter. Historically, some local governments have pursued CAMA Major Permits for beach bulldozing activities in the aftermath of major storms or other significant weather events. A Major Permit for the purpose of beach bulldozing

for dune rehabilitation, or new dune construction, can be authorized for the local government's entire Ocean Erodible Area, including the IHA where a previous dune existed, not to be confused with creating a new dune where it did not exist before. Currently there are 7 local governments or communities that have active CAMA Major Permits for beach bulldozing: North Topsail Beach, Surf City, Figure Eight Island, Wrightsville Beach, Oak Island, Ocean Isle Beach, Sunset Beach. If a local government has an active beach bulldozing CAMA Major Permit, property owners can coordinate with the town to request use of the local government's permit from the Division of Coastal Management, provided that the property is within the town's legal jurisdiction, and the property owner has received authorization from the local government. If approved by the Division, the property owner could then theoretically bulldoze under the same conditions specified in the local government's Major permit. CAMA exempts beach bulldozing from the permit process when it is done to protect imminently threatened structures, including septic systems, for the purpose of creating protective sand dunes. A structure is considered imminently threatened if its foundation, septic system, or right-of-way in the case of roads, is less than 20 feet away from the erosion scarp. Property owners who believe their structure is imminently threatened must contact a CAMA representative for consultation and a site visit prior to beginning work. Although a CAMA permit is not required, any work performed below the Mean High Water Line still may need federal authorization, so the Division recommends that property owners also consult with the U.S. Army Corps of Engineers. This also applies to IHA. To re-emphasize, this work is intended to protect imminently threatened structures with the following stipulations: The area on which this activity is being performed must maintain a slope that follows the pre-emergency slope as closely as possible so as not to endanger the public or hinder the public's use of the beach. All mechanically disturbed areas shall be graded smooth of ruts and spoil berms that are perpendicular to the shoreline. The movement of material utilizing a bulldozer, front-end loader, backhoe, scraper or any type of earth moving, or construction equipment shall not exceed one foot in depth measured from the surface elevation; the activity shall not exceed the lateral bounds of the applicant's property without written permission of adjoining landowners; movement of material from seaward of the mean low water line shall not be permitted under this exemption; and the activity shall not significantly increase erosion on neighboring properties and shall not have a significant adverse effect on natural or cultural resources. To address concerns and comments raised, I'll start with amendments to 07H.0308(b)(5) for the Commission to consider, which are specifically for clarification purposes. Currently the rule states that "no new dunes shall be created in inlet hazard areas." Currently reconstruction or repair of an existing dune system within an IHA is permissible. This amendment is to make a distinction between "new dune creation" and "restoration & repair." Use of a General Permit, 07H.1800 or the Emergency GP 07H.2500, for the purpose of beach bulldozing, currently does not apply to areas inside Inlet Hazard Areas. With the expansion of the proposed updated boundaries, would also come added restrictions for those who are not in an IHA now. Staff is proposing amendments to 07H.1801 for the Commission to consider that would eliminate the restriction in Inlet Hazard Areas, and not allow the GP to apply where a town or community has a Major Permit for ongoing beach bulldozing project or has completed a project within 30 days of a request for a general permit. Where a project is completed, a property owner can request a GP once the 30-day period has closed. Lastly, Staff is also recommending amendments to 07H.1805(f) for the Commission to consider. Currently, this rule requires approval from DCM in coordination with NC Wildlife Resources Commission, US Fish & Wildlife, and the US Army Corps to minimize impacts to nesting sea turtles within the period of

April 1 – November 15. If utilization of GP for beach bulldozing is extended to Inlet Hazard Areas for the purpose of dune restoration or stabilization, not creation of new dunes, Staff is recommending that the Commission consider amending the rule to specify “threatened and endangered species” rather than “nesting sea turtles” since inlet areas can and do serve as habitat for other species. Additionally, when inside an IHA, the rule would require coordination with State and Federal agencies anytime, not just the period of April 1 to November 15. DCM Staff are asking the Commission’s to consider approval of amendments to rules in 15A NCAC 07H.0308(b)(5) and 15A NCAC 07H.1800 to clarify distinction between new dune creation and reconstruction or repair inside IHAs, and to allow the use of a CAMA General Permit for bulldozing in Inlet Hazard Areas unless the Town or community has an ongoing project under a Major Permit, or has just completed a project within 30 days of a property owner requesting a GP.

**Bob Emory made a motion to approve amendments to 15A NCAC 07H .0308 and 07H .1800 for public hearing. Neal Andrew seconded the motion. The motion passed unanimously (Cahoon, Andrew, Baldwin, Bromby, Cooper, Emory, Medlin, Salter, Smith).**

### **FLOATING STRUCTURES**

#### **Proposed Concepts for Floating Structures Associated with Shellfish Leases (CRC 21-29)**

##### **Mike Lopazanski**

Mike Lopazanski stated the Coastal Federation gave a presentation and staff presented a review of the floating structures policy at the June CRC meeting. The division has investigated other states’ policies on these structures. The Coastal Federation has discussed this need with local growers. They learned that growers are not always riparian property owners, shading and workspace needs, and sanitation requirements are a few of the reasons that these structures need to be moored on shellfish leases. Of the ten states that DCM contacted, six states allow but have not permitted these structures. In some states they require a permit. Other states also had similar concerns about these floating structures including public trust and navigation impacts, FDA issues, and bird roosting issues. DCM found that even where these structures were allowed, there were relatively few specific standards that apply to them. DCM learned from the other states’ experience with these structures that there are still concerns about having floating structures in open waters. The CRC recently addressed floating upweller systems through rulemaking which requires them to be within a permitted marina or within a residential dock with platform criteria. If the Commission is interested in moving ahead with regulating these structures, staff has created some concepts that could be worked into formal rulemaking. Staff would propose a time limited permit. To address some of the sanitation issues, staff recommends that the applicant provide a proposal for how to deal with sewage associated with these structures. Staff also suggest that these floating structures not be habitable. In accordance with existing rules on freestanding moorings, moorings are for the exclusive use of riparian property owners. Several local governments are dealing with illegal moorings currently. Staff would recommend that no permanent moorings be allowed, and riparian property owner notification be provided for all of these structures. Staff would also recommend putting a size limit on any proposal and limit to single-story use. An identification system would need to be incorporated to link the owner to the structure.

Craig Bromby asked about including a bond requirement. Mike responded the CRC does not have the authority to require bonds. This would need a legislative change.

Neal Andrew asked about the size limitation. Mike responded that the Commission should limit the size 400 square feet. Growers have requested a minimum size of 30'x15'.

Lauren Salter commented that if shellfish growers are asking for these floating structures, it is because they need them. The CRC should look at this as part of the shellfish business so there is less likelihood of these structures being abandoned and the burden of removal being put on the State to clean up. To address some of the issues, there could be more focus on notification of riparian property owners and potentially a full public hearing. I would support finding a way to allow these.

Jacob Boyd, DMF, stated the Division requires a bird mitigation plan and can look at the suggestion for a time limited permit. A hurricane plan will also be required to allow these structures on water column leases. This option will be good for certain areas that are away from populated areas to provide the surface area that is needed for their operation. Most growers are only going to build the minimum of what they need to get the job done.

Robert High stated a bond or letter of credit should be required in case it's needed for cleanup.

Braxton Davis stated spatial planning and reducing user conflicts will be important. DMF has statutory authority to look at existing uses in a proposed lease location and can request use of another space. DMF evaluates the location and could provide comments on whether a floating structure could create user conflicts in certain locations.

Larry Baldwin asked how the Corps and Coast Guard feel about these structures in navigable waters. Mike Lopazanski responded that there is limited experience with these structures and advice on regulatory requirements was sparse. Staff would need to follow up to get an answer. Larry also asked about the density of these structures in an open water body. Braxton Davis commented that DMF would look at the water column leases, but there may be a need to expand the limitations to the amount of the structures allowed for cumulative impacts to the waterbody.

Neal Andrew stated he is a proponent of growing the mariculture industry. We should support the growers, but within reason. The maximum size of the structure should be considered, but make sure it is helpful to the growers. Jacob Boyd commented that it could be a similar regulation to the maximum number of corner markers allowed and the size of the markers. DMF can work with the growers to get input on the size that would be needed.

Robin Smith commented that Department of Administration should be consulted to see if any easements would be required for these structures.

Bob Emory asked how long these floating structures are in place. Mike Lopazanski stated the growers have asked for permanent mooring of the structures.

Chair Cahoon asked the Commission whether to continue to not allow floating structures, or whether staff should provide draft rule language based on the concepts staff provided. By consensus, the Commission requested staff to provide a first draft of rule language for the Commission's discussion in November.

### **STRUCTURAL BOAT COVERS**

#### **Amendments to 7H .0208(b)(6) & 7H .1200-Structural Boat Covers (CRC 21-30)**

##### **Kelly Spivey, District Manager**

Kelly Spivey stated at your last meeting you were presented with current rules as they relate to boathouses. During the presentation we looked at examples of traditional boathouses as well as structural boat covers with retractable sides. Present at the meeting was a representative of Touchless Covers (a specific brand of retractable cover). In summary, two specific rules address construction of boathouses within your Estuarine Water and Public Trust water Areas of Environmental concern. They are 15A NCAC 07H .1205(l), General Permit & 15A NCAC 07H .0208(b)(6)(D), Use Standards. The question was asked by the commission why boathouses were not allowed on lots less than 75'. One of the reasons was view shed. The other reason was navigation concerns. I don't think I adequately answered the question as it relates to the navigation issue. I spoke with David Moye, a previous employee of the Division who was involved in pier/dock rulemaking while with the Division. The 75' was the minimum amount of shoreline the Division and the Commission felt would allow sufficient navigation between two structures given the required 15' setback from the riparian lines. On a 75' lot with a setback of 15' on each side would allow a 45' wide corridor to construct a pier, platform and boathouse to comply with your standard of 8 square foot of platform per foot of shoreline limitation. On a 75' wide lot, a maximum of 600 square feet of shaded impact is allowed. These are different configurations with a 400 square foot boathouse and 200 square foot deck on 75' lots. Based on the motion from your last meeting, staff propose the following rule changes if you choose to move forward. The proposed amendments in both 07H .0208 and 07H .1205 will clarify that structural boat covers will be reviewed under rules governing boathouses but will be allowed on smaller lots when using screened material for side walls. Additionally, boathouses and structural boat covers will continue to be subject to existing square footage limitations based on shoreline length found in 15A NCAC 07H .0208 (b)(6)(B) and 15A NCAC 07H .1205(e). Staff also incorporated a clarification that wall heights are measured down to the Normal Water Level or Normal High Water level.

Robin Smith asked how this language addresses the navigation issue between structures on small lots. Kelly Spivey responded that boatlifts are currently allowed on lots with less than 75'.

**Neal Andrew made a motion to approve amendments to 15A NCAC 07H .0208 and 7H .1205. Larry Baldwin seconded the motion. The motion passed unanimously (Cahoon, Andrew, Baldwin, Bromby, Cooper, Emory, High, Salter, Smith).**

### **INNOVATIVE STORMWATER APPROACHES**

#### **ORWs and innovative Stormwater Systems (CRC 21-33)**

##### **Robb Mairs, LPO Minor Permit Coordinator**

Robb Mairs stated, I am here to discuss our current rules for development adjacent to Outstanding Resource Waters (ORW). In 2019, the CRC amended 7H .0209 to remove the

prohibition against the use of stormwater collection systems on shorelines adjacent to ORWs, as designated by the Environmental Management Commission (EMC); however, some ambiguity exists over whether the ability to utilize innovative stormwater design to exceed the maximum built upon area applies to both ORW and non-ORW shorelines. The CRC's rule 7H .0209(d)(2) allows for the use of innovative stormwater design to exceed the 30 percent built upon area allowance on non-ORW shorelines, but the rule is silent on the use of innovative design along ORW shorelines. Coastal Shoreline rules basic standards allow for less than 30% impervious coverage along Coastal Shoreline AECs, innovative stormwater systems acceptable within the 75' AEC, and less than 25% impervious coverage along ORW coastal shoreline AECs (575' AEC). Staff is recommending that engineered stormwater design also be allowed as a way to increase built upon area along ORW shorelines if the proposed engineered stormwater design provides equal or greater protection than 25 percent built upon area; and the total built upon area does not exceed 30 percent of the AEC portion of the lot.

**Neal Andrew made a motion to approve amendments to 15A NCAC 07H .0209 for public hearing. Bob Emory seconded the motion. The motion passed unanimously (Cahoon, Andrew, Baldwin, Bromby, Emory, High, Medlin, Salter, Smith).**

#### **ACTION ITEMS**

##### **Consideration of Adoption 15A NCAC 7H .0308(c) Specific Use Standards for Ocean Hazard Areas & 15A NCAC 7K .0207 Structural Accessways Over Frontal Dunes Exempted**

Mike Lopazanski stated these amendments allow for the use of matting for public access sites which was inconsistent with the specific use standards. These synthetic mats are used for handicap access. The installation of these mats is limited to state, federal, and local governments. No public comments were received during the public hearing, but there was support of these amendments through emails to the Division. Staff recommends adoption of these amendments.

**Larry Baldwin made a motion to adopt amendments to 15A NCAC 7H .0308. Doug Medlin seconded the motion. The motion passed unanimously (Cahoon, Andrew, Baldwin, Bromby, Emory, High, Medlin, Salter, Smith).**

**Larry Baldwin made a motion to adopt amendments to 15A NCAC 07K .0207. Neal Andrew seconded the motion. The motion passed unanimously (Cahoon, Andrew, Baldwin, Bromby, Emory, High, Medlin, Salter, Smith).**

##### **Consideration of Adoption 15A NCAC 7H .0306 General Use Standards for Ocean Hazard Areas & 7J .1300 Development Line Procedures**

Ken Richardson stated these amendments were approved by the Commission in September 2020 to resolve two rule implementation issues. These amendments address communities where there are approved development lines and static line exceptions. These amendments direct communities to notify the Division of which management approach will be utilized, not allowing for both. Additional amendments allow for development seaward of the development line as currently allowed under the current exceptions in 7H .0309. Public hearing was held in May 2021 and no comments were received. Staff is recommending adoption of these amendments.

**Bob Emory made a motion to adopt amendments to 15A NCAC 07H .0306. Doug Medlin seconded the motion. The motion passed unanimously (Cahoon, Andrew, Baldwin, Bromby, Emory, High, Medlin, Salter, Smith).**

**Doug Medlin made a motion to adopt amendments to 15A NCAC 07J .1300. Neal Andrew seconded the motion. The motion passed unanimously (Cahoon, Andrew, Baldwin, Bromby, Emory, High, Medlin, Salter, Smith).**

**Consideration of Adoption 15A NCAC 7J .0403 & .0404 Renewals**

Daniel Govoni stated amendments to 7J .0403 change the expiration date for new Major Permits from three years to five years from date of issuance and change the expiration date for multi-phased beach nourishment projects from three years to ten years from the date of issuance. Amendments to 7J .0404 allow for multi-phased beach nourishment projects to be granted ten-year extensions to allow for continuing project completion as opposed to the current two-year allowance. Renewals for maintenance of previously approved dredging projects may be granted for periods not to exceed five years. No comments were received during public hearing and staff recommends adoption of the amendments.

**Larry Baldwin made a motion to adopt amendments to 15A NCAC 07J .0403. Doug Medlin seconded the motion. The motion passed unanimously (Cahoon, Andrew, Baldwin, Bromby, Emory, High, Medlin, Salter, Smith).**

**Bob Emory made a motion to adopt amendments to 15A NCAC 07J .0404. Neal Andrew seconded the motion. The motion passed unanimously (Cahoon, Andrew, Baldwin, Bromby, Emory, High, Medlin, Salter, Smith).**

**Coastal Habitat Protection Plan**

**Consideration of 2021 Recommendations for Public Comment (CRC 21-31)**

**Jimmy Johnson/Anne Deaton**

Larry Baldwin stated the CHPP stakeholder committee has met extensively to provide the recommendations. Bob Emory stated the CHPP started 15-20 years ago, and these updates give us the opportunity to develop specific objectives.

Jimmy Johnson stated over the past two years we have developed these recommended actions in the draft CHPP amendment, and we are here today to ask the CRC for their approval to take the document out for public comment. The 2016 source document has not been amended in any way and will continue to serve as the science document for this amendment. The focus of the 2021 amendment is on five priority issues. While oyster restoration remains a high priority, the Coastal Federation's Oyster Blueprint and oyster steering committee will take on most of the work of this priority. The CHPP originated out of the Fisheries Reform Act of 1997. It was intended to address concerns over decreasing fish stocks and the need to address habitat and water quality to improve those stocks. In addition to healthy fisheries, there are other benefits to healthy habitats and good water quality. They provide ecosystem services, water filtration, and erosion and flood control. These services sustain the coastal tourism economy and coastal community resilience.



Anne Deaton stated the five issue papers in this amendment have elements that will benefit all North Carolina habitats: wetlands, submerged aquatic vegetation, oyster reefs, ocean hard bottom, soft bottom, and water column. This amendment has an emphasis on estuarine water quality improvement— this was intentional due to the strong influence water quality has on fish and habitat condition, and some concerning trends. Because of this, the CRC and DCM are not listed as the lead for most of the recommended actions, but DCM would be a collaborative partner. Successful implementation would benefit coastal resources conserved and managed by CRC and increase coastal community resilience, benefiting local governments along the coast. The 1<sup>st</sup> issue paper is SAV Protection and Restoration through Water Quality Improvement. This was selected as a priority issue for the plan because of its critical importance for fisheries production, the ecosystem services provided, and concern due to evidence of decline. It is well documented that water quality is the greatest current threat. NC agencies have done a good job at protecting SAV from physical threats like dredging. Multiple land use sources contribute to the water quality decline, stormwater runoff being the most significant. Climate change is a major concern too (temperature increase and increased runoff). In NC, we have SAV in both low and high salinity estuaries. In the SAV issue paper there are nine recommended actions and some additional research needs. I won't be going over the research needs, but they are included in your briefing material. There are three actions that are about developing or modifying water quality standards that will protect SAV, working through an existing process. DWR and Nutrient Criteria Development Plan (NCDP) Scientific Advisory Council (SAC) are working on developing nutrient criteria for Albemarle Sound and Chowan River. This scientifically based process is already started and needs to be followed through. This has successfully been done in Chesapeake and Tampa Bays and we have collaborated with those involved to get successful approaches. Like SAV, wetlands are critical for fish production, but are probably the most important fish habitat for improving water quality from runoff, protecting property from erosion, and increasing coastal community resilience. This issue paper goes over the extent of documented losses and gains, sources of that change, and reviews new strategies to protect and restore wetlands using nature-based methods. This includes strategies such as living shorelines, nature-based stormwater BMPs and low impact development, hydrologic restoration by undoing ditching and draining, thin layer sediment dispersal, and preserving wetlands as greenways and parks. There is a need for updated wetland maps. This would have many benefits, particularly assessing where to prioritize nature-based projects, such as where living shorelines are suitable for shoreline stabilization; where to focus restoration and identify strategic marsh migration routes to protect for the future. These mapping actions would require multi-agency approach. While not the lead, we would hopefully have DCM participation. We are working with the Department of Defense's Southeast Partnership for Planning and Sustainability (SERPPAS) to develop a Southeast Regional Marsh Conservation Plan, which provides the framework for reaching the 1-million-acre salt marsh conservation initiative. There are a few actions about wetland restoration and living shorelines. DCM and CRC have already done a lot in this area to remove barriers and provide education on this topic. DMF and DCM are already working to determine how to prevent oyster harvesting from living shorelines that require oysters for integrity of the structure. Division of Mitigation Services, DCM, and others can research to see if constructing living shorelines could qualify for mitigation credits. This is currently being done in Virginia. DEMLR and other divisions can work to increase outreach and training for nature-based stormwater strategies. This is a voluntary approach to encourage more nature-based solutions for managing stormwater that also restore or create wetlands. The next issue paper is environmental rule

compliance to protect our coastal habitats. There is an insufficient number of staff in DWR and DEMLR in coastal regions to conduct follow-up compliance inspections. Non-compliance leads to increased wetland loss and water quality degradation. With increasing development and water quality degradation, there is a need to protect wetlands from unpermitted impacts. Compliance is shown to improve when staff conduct random inspections. The focus of this issue paper is on permits related to wetlands, particularly 404 wetlands, and stormwater BMP compliance. The paper reviews known compliance rates across divisions, and how having additional staff to conduct periodic site visits could go a long way to reducing unauthorized wetland and water quality impacts. The recommended actions include seeking funding to increase staffing in DWR and DEMLR to allow compliance monitoring which mostly involves 404 wetland impacts, buffers, stormwater structures, sediment and erosion control. This would increase compliance, benefiting wetlands and estuarine waters. Another recommended action involves approaches to increase outreach so public is more aware of and able to comply with the rules. The next issue paper is wastewater infrastructure solutions for water quality improvement. Inflow and Infiltration is prevalent in the coastal plain and the leading cause of sewer system breaks and spills. Raw sewage causes acute water quality problems. Climate change will compound the issue. Water quality can be enhanced by repairing and maintaining failing wastewater infrastructure. For this topic, there are five recommended actions. We will ask the Department to have the Division of Water Infrastructure and State Water Infrastructure Authority to prioritize funding for coastal projects that will protect sensitive estuarine resources, such as open shellfish waters, nursery areas, and seagrass. The State Water Infrastructure Authority has the responsibility of awarding grants and loans to local communities for wastewater infrastructure improvements. We also need to develop incentives and strategies to maintain wastewater infrastructure. DCM and others can work with NC Office of Recovery and Resiliency (NCORR) and local governments in coastal counties to develop flood proofing strategies and upgrades sewer infrastructure. DWR will evaluate modifying requirements for all or a subset of the deemed permitted collection systems. These are smaller systems with an average daily flow of less than 200,000 gallons per day. These systems are smaller but abundant. They plan to look at the possibility of requiring annual pipe cleaning and having an assigned operator in responsible charge. These requirements are similar to those that are required at larger facilities, and they are good techniques to prevent or catch sewer line breaks early. The final issue paper is coastal habitat mapping and monitoring to assess status and trends. Fish habitats are cornerstone to healthy estuarine fish, waters, and coastal economy. There is very limited long-term funded habitat monitoring programs and regular monitoring is needed to know status of habitats and where to target actions. There are six recommended actions in this issue paper. To establish interagency workgroups by habitat type to determine parameters to monitor so that status and trends can be determined. Since DCM is not involved with monitoring, they wouldn't need to be involved with these, except possibly wetlands. Once we develop and implement sampling protocol, we can produce a NC Ecosystem Status Report. The five issue papers are related. Implementing actions in the compliance, wetlands, and wastewater infrastructure issue papers will improve water quality and benefit SAV and oyster reefs. The mapping and monitoring issue paper will help us understand habitat trends, help target future actions, and determine the health of our coastal ecosystem. The overall goal for these collective actions is improved habitat condition, more fish, and increased coastal resilience. Protecting and restoring our coastal habitats is a nature-based solution that can reduce climate change impacts and increase community resilience. We also want to point out that the appendix includes early public

comment received from a stakeholder workgroup. The group was organized by NCCF and Pew Charitable Trust, with the approval of the CHPP Steering Committee. The purpose was to develop some cross-cutting voluntary water quality recommendations that would be beneficial for coastal habitats and relevant to issue papers in this amendment. Their summary report was presented to the Steering Committee at their last meeting. The Committee directed the team to include the report in the Appendix to allow public comment on these recommendations as well as those included in 9 of the CHPP amendment. The public comment period will tentatively begin September 20th, for a 30-day period. There will be a news release with information on meetings and how to submit written comments.

**Larry Baldwin made a motion to approve the draft CHPP 2021 amendment and appendix for public comment. Doug Medlin seconded the motion. The motion passed unanimously (Cahoon, Baldwin, Bromby, Emory, High, Medlin, Salter, Smith).**

### LEGAL UPDATES

#### Update on Litigation of Interest to the Commission (CRC 21-32)

Mary Lucasse, CRC Counsel, reviewed all active and pending litigation of interest to the CRC. She advised the Commission that since finalizing their summary memo, an additional third party hearing request was received. That brings the total to ten for the year. There is legislation on the Governor's desk that if signed will extend the time for the Chair to reach a decision on third party hearing requests to 30 days. Currently the Chair has 15 days to review the request, receive a written recommendation from Staff, and make a decision whether to grant or deny the request.

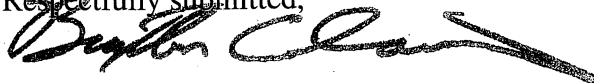
### OLD/NEW BUSINESS

Chair Cahoon stated the CRC Executive Committee will meet to discuss recommending a new Science Panel Chair.

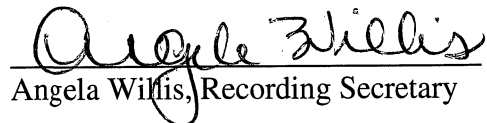
Tancred Miller stated under the current Charge to the Science Panel from the CRC, an update on the Sea Level Rise Report is due. In the interim, Executive Order 80 directed the State to produce a climate science report and resiliency plan. DEQ will be providing these reports. The IPCC Report was also recently released. Sea Grant's along with NOAA new website is looking at tide gauges across the county and on this site, you can view historic and projected reports on changes. Based on this information, the Science Panel could provide an annual summary on existing reporting to the CRC instead of a Sea Level Rise update. Robin Smith stated the Charge to the Science Panel could be updated at the November meeting. Braxton Davis commented that the Science Panel could provide the Commission with regular updates on the most current reports and information available to identify North Carolina's needs and trends. Bob Emory stated the modification to the Charge makes sense. North Carolina put Sea Level Rise on the map in 2010 and then provided an update in 2016. The Science Panel could be better used to provide what all of the available information means to North Carolina.

With no further business, the CRC adjourned.

Respectfully submitted,



Braxton Davis, Executive Secretary



Angela Willis, Recording Secretary