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Secretary

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Director

October 21, 2021

MEMORANDUM

TO: Marine Fisheries Commission
Habitat and Water Quality Advisory Committee

FROM: Anne Deaton, Habitat Program Supervisor
Casey Knight, Habitat Biologist
Habitat and Enhancement Section

SUBJECT: Marine Fisheries Commission's Habitat and Water Quality Advisory Committee Meeting, October 20, 2021. Recommendations for the Coastal Habitat Protection Plan (CHPP)

The Habitat and Water Quality Advisory Committee (AC) Meeting met virtually at 6:00 pm Wednesday October 20, 2021. The following attended:

Advisors: Martin Posey, Pete Kornegay, Bob Christian, Joel Fodrie, Nathan Hall, Chris Moore, Scott Leahy, Jerry Spoo, Mike Street, Brian Boutin

Staff: Anne Deaton, Casey Knight, Jimmy Johnson, Steve Poland, Tina Moore, Jason Parker, Corrin Flora, Lara Klibansky, Trish Murphey, Alan Bianchi, Dana Gillikin, Hope Wade, Debbie Manley, Lee Paramore,

Public: Avery Davis Lamb, Jonathan Hinkle, Tom Looney, Colleen Karl, Anne Coan, Rebecca Dorhan, E. Kountis, Tom Looney, Kelly Garvy, Leda Cunningham

Habitat and Water Quality AC Chair Pete Kornegay called the meeting to order at 6:03 pm. A roll call for attendance was performed and all Habitat and Water Quality AC members were present.

APPROVAL OF THE AGENDA AND APPROVAL OF THE MINUTES

A motion was made to approve the agenda by Martin Posey. Second by Mike Street. The motion passed without objection.

A motion was made to approve the minutes from the Habitat and Water Quality AC meeting held on June 17, 2021 by Nathan Hall. Second by Martin Posey. The motion passed without objection.

2022 ADVISORY COMMITTEE PLANNING MEETING UPDATE

Lara Klibansky, Marine Fisheries Commission (MFC) liaison, provided an overview on how the division will move to holding topic-specific listening sessions before all MFC AC meetings in 2022. She went through a timeline on the public and MFC AC review process. The purpose of the listening session is to more effectively engage the public with the leads for informational opportunities and to gain feedback from the public. Stakeholder input is essential to DMF and the MFC. The listening sessions will begin in 2022 and will be scheduled one week before the scheduled MFC AC meetings. The MFC AC members can attend but the sessions will also be recorded and will be available for viewing prior to the AC's scheduled meetings. The presentation portion of the AC meetings will be a brief overview of the meeting topics detailed during the listening session so the committees and leads can have longer, focused discussions.

2021 COASTAL HABITAT PROTECTION PLAN AMENDMENT

Anne Deaton and Jimmy Johnson presented the recommendations in the Coastal Habitat Protection Plan amendment through a pre-recorded video. Chair Kornegay asked for any questions from the committee members.

Scott Leahy asked about the responsibility of the property owner to maintain the shoreline, noting that if someone wants to build a dock, they should have to do a positive environmental project as well to offset impacts, such as a living shoreline or growing oysters under the dock. Deaton answered that NC Coastal Resources Commission (CRC) does not allow mitigation unless it is a project that provides substantial public benefit, such as a bridge. She noted that one CHPP recommendation is to investigate living shorelines be allowed as a mitigation credit.

Leahy met with a NC Coastal Federation (NCCF) employee and was told that constructing a living shoreline at his site would be expensive and he couldn't grow oysters under his dock without a Under Dock Oyster Culture (UDOC) permit. Deaton said he could do either, but needs a permit. He suggested the process be streamlined and made easier for property owners that wants to do something good for the environment. Joel Fodrie added that DMF's Shellfish Sanitation Section has concerns with oyster culture in some locations due to human health safety when consumed.

Fodrie noted that while the issue paper SAV Protection and Restoration through Water Quality Improvements identifies water quality as a paramount concern, the maps in the paper do not show a lot of the dynamics in the high salinity where continuous beds have become patchy. Same overall acreage, but it is now patchy. That is an important issue which is not addressed and the driver might not be WQ for these shallow high salinity areas. Anne says there's a lot to figure out between the dense and patchy beds. Patchy grass beds are still valuable to fisheries. Need better mapping and research to figure out what is going on. Fodrie mentioned the APNEP report that shows a shift in some areas from continuous to patchy, primarily north of Hatteras behind the banks. He asked if triggers or thresholds could be used where the state "shall take action" if SAV declines by a certain amount, like what is done in some FMPs with overfished status. He asked if there was a pathway toward

this. Deaton noted we need more science to do that. Nathan Hall agreed, saying that we don't know what that action should be because we do not know what human activities or stressors are causing the grass loss. Deaton noted the recommendations would work towards that. Once you have water quality standards for SAV, management actions could be taken, similar to TMDLs in impaired waters.

Casey Knight mentioned that the SAV issue paper does include the information he referenced from the APNEP report and the issue needs to be examined more to determine cause. We can move toward triggers then, which is why we drafted the recommended actions to be specific and time bound. Martin Posey added that compounding factors make triggers and consequences difficult and to the extent there is uncertainty it needs to be worked through gradually.

Bob Christian commended staff on a good report/plan. It is well written and authoritative. He pointed out that flow and water quality are very interconnected. The plan mentions large storms increasing loading but could add more emphasis on low-flow conditions. Coastal plain streams have experienced a decadal decrease in base flow. Decreased flow causes positive and negative water quality impacts. The positive is that loads go down. The negative is static water and intrusion of saltwater. Also, if wastewater effluent is in the stream, it can have greater impacts. He also noted that the elephant not in the room is agriculture. The plan does not do enough with agriculture. Best Management Practices (BMPs) are mentioned, but the NC Department of Agriculture (NCDA&CS) is not. Since agricultural runoff impacts water quality (nutrients, pesticides), they need to be brought into the process in a bigger way. Need to make that happen at the higher managerial level. This would have an opportunity to give the plan more teeth.

PUBLIC COMMENT

Avery Lamb, with Creation Justice Ministries, read Rev. Gerald Godette's comments because he had a last-minute conflict. Rev. Godette is the minister at St. Paul African Methodist Episcopal Zion Church, in Aurora and he is also a Marine Biologist. The church sits directly on Pamlico River, was flooded before, and will flood again. With support they can improve their physical and social resilience and bounce back quick. He spoke on the importance of public-private partnerships, with the example that the power of a church isn't in the pastor, but in the collective members of the congregation. The NC Oyster Blueprint is a good example of partnerships improving efforts. He emphasized the importance of the CHPP's recommended actions that protect and restore natural habitats and increase climate resilience. We need to invest in protecting and restoring these ecosystems provided to us.

Jonathan Hinkle/GPI— was a member of the NCCF-Pew Water Quality Stakeholder Workgroup. The group had wide stakeholder representation, including agriculture, and many technical presentations and shared cross cutting ideas. He said there is a need for public private partnership and implementation of the CHPP and water quality actions are important. As a stormwater engineer he sees degraded water quality every day. There are multiple opportunities with HB 500 for the CHPP and others in the water quality community working within departments of the state. Dept of Public Safety would be a potential working partner on coastal projects and functional lift in water quality for SAV and water quality improvement.

Tom Looney/ self – has 40 yrs in technology industry and is member of NCCF board. He grew up north of NC, where the habitat was destroyed, and he doesn't want that to happen here. He was involved with developing the NC Strategic Plan for Shellfish Mariculture, He learned a lot through that about the impact of storms and stormwater and knew more needed to be done. When the plan was presented to the legislature, clean water was the first question legislators asked about because it is needed for oysters. CHPP needs that type of public-private partnership to reach success. The Oyster Steering Committee is willing to collaborate on the initiative.

Colleen Karl/ Chowan Edenton Environmental Group – long time Chowan County resident in Edenton, background in oceanography and Chair of the Chowan-Edenton Environmental Group. Their organization is a group of scientists that document and collect algal bloom samples, which have been a problem since 2015. They have noticed the reoccurrence of severe cyanobacteria blooms and are actively looking for cross-cutting ideas to reduce nutrients and lessen the impact of the blooms. This year, Bennett's Millpond had excessive blooms present from July through October. As local citizens, they want to help the research community determine the causes of such events and increase awareness. The Chowan Edenton Environmental Group supports the CHPP and offers to help advance initiatives in the plan. (Note- audio cut out, but Ms. Karl submitted written comments and that was used for these minutes).

DISCUSSION AND VOTE ON RECOMMENDATIONS TO THE MARINE FISHERIES COMMISSION ON THE 2021 COASTAL HABITAT PROTECTION PLAN AMENDMENT

Motion by Jerry Spoo that the Habitat and Water Quality Advisory Committee supports the intent of the 2021 draft Amendment to the CHPP and the inclusion within the plan of the stakeholder recommendations to explore including the formation of a public/private partnership with stakeholders to seek state, federal and private funding to support the plans recommended actions and stakeholder recommendations. Second by Bob Christian

Mike Street mentioned that when DEQ first started working on the CHPP, they had representatives from NCDA&CS. They are needed at the table for buffers, Tar-Pam rules. He also likes the idea of the public-private partnership. Johnson replied that NCDA&CS continues to be involved with CHPP team. Division of Soil and Water Conservation, and Forest Service have contributed to the Amendment, but we may need someone else more closely aligned with the commission. Johnson said we may need to request other team members from them and he will look into it. The committee discussed if a separate motion was needed to emphasis involvement from NCDA&CS. It was decided that it would be better coming from the CSC.

The motion passed without dissent.

Johnson recognized Casey Knight and Trish Murphey for their time and effort in assisting with compiling the information in the draft 2021 CHPP Amendment.

MARINE FISHERIES COMMISSION UPDATE

Deaton provided the MFC update. The MFC voted at its August meeting to approve the CHPP 2021 Amendment for public comment and MFC AC review, which your committee reviewed

tonight. The MFC reviewed an information paper on existing small mesh gill net rules. The paper looked at current rules related to small mesh gill nets and summarized available data on the small mesh gill net fishery. The paper, developed at the request of the Department and MFC, addressed potential modifications to the fishery intended to reduce regulatory complexity, reduce bycatch and to the extent possible, reduce conflict between user groups. The MFC after review voted not to initiate rulemaking on small mesh gill nets at this time, but rather to refer the issue to the FMP process through the individual species plans as they occur.

Other items from the August MFC meeting included:

- Set the cap on SCFL eligibility pool at 500 for 2021-2022 fiscal year
- Doug Cross was re-elected as MFC Vice-Chairman
- Approved the five-year FMP schedule for review and approval by the DEQ Secretary

The next MFC meeting is November 17-19 in Emerald Isle. On the agenda is:

- Southern Flounder FMP Amendment 3 to vote to send the draft out for review by the public and MFC ACs.
- Shrimp FMP Amendment 2 to vote on preferred management options for DEQ Secretary and Legislative committee for their review.
- CHPP review of input from ACs and public, and vote on approval of the plan. Once all three commissions have approved the plan, it will be sent to the DEQ Secretary and Legislative Commission on Governmental Operations for their review and final adoption of the plan amendment.
- Interjurisdictional FMP is in the beginning stages of review. The MFC will vote to approve the goal and objectives of plan.

The Estuarine Striped Bass FMP Amendment 2 is still in the plan development stage. Workshops were recently completed with the striped bass AC. The timeline has the MFC approve to send to MFC AC review at their meeting in February 2022. The spotted seatrout stock assessment is underway with completion tentatively planned for spring 2022. The striped mullet stock assessment is also underway and will go through formal peer review next month in November.

PLAN AGENDA ITEMS FOR THE NEXT MEETING

Based on the MFC update, the Habitat and Water Quality AC may be asked to review the Southern Flounder FMP Amendment 3, which is scheduled for review in January 2022. There were no other suggested agenda items.

The meeting was adjourned at 7:39p.m.