

NC COASTAL RESOURCES COMMISSION (CRC)

February 26-27, 2025

DoubleTree New Bern Riverfront, New Bern

Present CRC Members

Renee Cahoon, Chair
Neal Andrew, 1st Vice-chair
Larry Baldwin
D.R. Bryan
Bob Emory
Jordan Hennessy
Sheila Holman, 2nd Vice-chair
Lauren Salter
Steve Shuttleworth
Earl Smith

Present CRAC Members

Bobby Outten	David Kellam
Kyle Breuer	Kathleen Riely
Daniel Brinn	Debbie Smith
Sandy Cross	John Spruill
Ryan Davenport	Dave Weaver
David Hewett	John Windley
Kris Noble	Candy Bohmert

Present from the Office of the Attorney General

Mary Lucasse

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

Christine Goebel

CALL TO ORDER/ROLL CALL

CRC Chair Renee Cahoon called the meeting to order at 3:00 p.m. on February 26, 2025, 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 state when the roll is called. No conflicts were reported. Commissioners High, King, and Yates were absent. Based upon this roll call Chair Cahoon declared a quorum.

MINUTES

Larry Baldwin made a motion to approve the minutes of the November 13-14, 2024 Coastal Resources Commission meeting. Sheila Holman seconded the motion. The motion passed

unanimously (Cahoon, Baldwin, Bryan, Emory, Hennessy, Holman, Salter, Shuttleworth, Smith) (Andrew abstained).

Sheila Holman made a motion to approve the minutes of the December 16, 2024 special meeting of the Coastal Resources Commission. Larry Baldwin seconded the motion. The motion passed unanimously (Cahoon, Andrew, Baldwin, Bryan, Emory, Hennessy, Holman, Salter, Shuttleworth, Smith).

CRAC REPORT

CRAC Chair Bobby Outten gave the following report:

- **Sentinel Sites** – The CRAC discussed permitting pathways for sentinel sites. These devices monitor storms during storm events, and they do not fit well with the existing CRC rules. A major part of the discussion revolved around notice requirements. Staff were asked to work on the requirement for a signature for notice and permission to install these devices. A minor permit with a time limited expiration seemed like the best option. Following the CRAC’s review of draft language, it will be brought to the full Commission for discussion.
- **Artificial Turf Grass** – Artificial turf grass is currently not allowed in the CAMA 30-foot buffer. Jonathan Lucas gave a presentation on the pros and cons. The CRAC asked staff to come back with rules that would allow the material within the buffer, but with conditions to mitigate the negative impacts that could occur. The CRAC will review this rule language and determine whether to bring it forward to the CRC or recommend that the rules remain the same.
- **Shorelock** – The CRAC received a presentation by persons who invented “Shorelock”. This product is a sand additive that may preserve beaches by decreasing erosion. Costs for nourishment are going up and sand resources are going down. The CRAC asked staff to come back with the current rules and its opinion on whether use of this product could be allowed by the Commission’s rules.
- **BIMP** – Several years ago, the CRC wrote a letter of support for funding the update of the Beach and Inlet Management Plan (BIMP). The BIMP needs to be updated. The CRAC requests the CRC send a letter of support for funding from the Legislature.

Jordan Hennessy made a motion that the CRC provide a letter of support for appropriations to update the BIMP. Steve Shuttleworth seconded the motion. The motion passed unanimously (Salter, Bryan, Emory, Baldwin, Andrew, Cahoon, Hennessy, Holman, Shuttleworth, Smith).

EXECUTIVE SECRETARY REPORT

DCM Director Tancred Miller gave the following report:

Legislative

The 2024 legislative session ended in December with a couple of items of note. Most notable is that activity to rebuild docks, piers or walkways to their pre-damage condition is now considered repair regardless of how much of the structure is being rebuilt. Structures can also be extended

by 5 feet or 5 percent, whichever is less. This work is not subject to any CAMA permits, consultation with DCM staff, or CRC rules (e.g. adjacent property notifications, 15-foot riparian setbacks, ¼ width limits, etc.). The law applies to any dock, pier, or walkway that is not more than 6 feet wide, not more than 800 square feet of platform area, and not adjacent to a federal navigation channel. DCM has put out information for the public and property owners, including marine contractors. We are hearing a fair amount of confusion from the public and have received complaints from adjacent property owners about rebuilding activity that they have objections to. The 2025 session is underway, and we will be responding to DEQ's legislative affairs staff on inquiries and to provide any requested feedback on draft bill language. I will keep you updated on legislative activity affecting the program. Switching gears to Washington DC, like everyone, we are monitoring news and Executive Orders. So far, we have not been directly affected by any of the changes that have been made, other than the brief threat of a federal funding freeze at the end of January. However, the potential for a major impact is there if significant cuts are made to NOAA's budget or staffing, since over half of DCM's staff and operations are funded through NOAA's National Ocean Service. We are also monitoring the potential of a federal government shutdown on March 14th if the current Continuing Resolution expires without a replacement measure. A federal shutdown would affect our operations and service delivery in fairly short order.

Planning & Resiliency

We are happy to announce two grant opportunities for local governments:

Beach Access

The Division is now accepting pre-applications for the 2025-2026 Public Beach and Coastal Waterfront Access Grant Program, which supports projects that enhance public access to North Carolina's beaches and waterfronts. With approximately \$2 million in available funding, this program helps communities improve and expand pedestrian access through initiatives such as land acquisitions, and site improvements such as dune crossovers, parking facilities, beach mats, restrooms, and showers. Pre-applications are available on our website and must be submitted by April 25, 2025. For more information, please contact Rachel Love-Adrick or Mike Christenbury.

RCCP

In December the Division received nearly \$2M from the National Fish and Wildlife Foundation's National Coastal Resilience Fund to advance resiliency planning through the Resilient Coastal Communities Program (RCCP). Since 2021, the RCCP has enabled 41 communities to develop resilience strategies that identify vulnerable critical assets, strengthen natural infrastructure, and protect their populations. This new funding will sustain and expand these efforts, allowing communities to integrate resilience more deeply into local planning and the CAMA Land Use Plans. Grant applications for all RCCP phases, as well as CAMA Land Use Plans, will be available on March 7, 2025. To support applicants, staff will host a webinar on March 21 to guide them through the application process. Applications will be due by April 25. For more information, please contact Mackenzie Todd or Kasen Wally.

Regulatory

In regulatory updates we issued a CAMA/D&F Permit to the Town of Duck for approximately 772 linear feet of sheetpile living shoreline along the Town's park and existing boardwalk. The

project, as proposed, would have had significant Coastal Wetlands and Submerged Aquatic Vegetation impacts. Staff coordination resulted in the avoidance of over 15,000 square feet of temporary impacts and 2,500 square feet of permanent impacts to SAV. DCM issued a CAMA/D&F Permit to Hammocks Beach State Park to repair and expand approximately 1390 linear feet of living shoreline. The existing oyster bag sill and expansion will incorporate QuickReef prefabricated units along Jones Island. DCM staff issued a CAMA Permit to the City of New Bern for an ADA accessible fishing pier near Union Point. The ADA fishing pier will require additional permitting of the uplands to complete the ADA accessible facility. We are processing a CAMA/D&F permit application for the Mid-Currituck Bridge. We accepted the application as complete in early January and the 75-day clock runs through late March. This is a very large and complex project with strong public interest. The Division of Water Resources is holding a public hearing near the bridge site on 2/27, and DCM has been asked to hold a public hearing as well. We will update you on this application at your April meeting.

Coastal Reserve

Public access improvements are coming soon to the Buckridge Coastal Reserve in Tyrrell County. The Office of State Budget and Management is funding the Grapevine Landing Public Water Access project at \$2.59M for us to design and construct the project. The access project will provide public water access to the Alligator River and service to a Tier 1 county; replace a hurricane-destroyed community pier with a storm-resilient, ADA accessible pier; and include a public shallow-draft boat ramp and berths for continued commercial fishing presence. The project will provide an educational focal point to increase public awareness and understanding of coastal ecosystems; accommodate traditional recreational activities and other water and nature-dependent uses; and increase ecotourism opportunities while providing continued use by working watermen. The project will be led by DEQ Facilities Division in partnership with the Coastal Reserve; an RFQ is out now for a design firm and construction should begin in 2026. The Bald Head Woods Reserve was recognized as an old growth forest by the **Old Growth Forest Network** at a ceremony in late January. The Old Growth Forest Network is the national network of protected, old-growth, native forests that are publicly accessible for all to experience and enjoy. This designation complements and is consistent with the site's protection as a Coastal Reserve and Dedicated Nature Preserve. Partners from the Village of Bald Head Island, Bald Head Island Conservancy, Natural Heritage Program, volunteers and advisory committee members attended the brief ceremony and short hike through the woods. Reserve staff recently shared their work at the NC Coastal Conference, NERRS Annual Meeting, and Coastal GeoTools Conference. Topics covered included: community engagement to inform flooding resilience and water management planning in the Scuppernong River watershed, contributions of site steward volunteers in managing reserve sites, education partnerships with Carteret Community College and Carteret County Special Olympics, water quality trends at Masonboro Island Reserve, and best practices for using drones to monitor wetland vegetation and oyster reefs.

Staff News

The Wilmington Regional Office lost two Field Reps in December, Jason Dail who retired and Bryan Hall who accepted a position with New Hanover County. One position has been re-filled, and we are still working to fill the other so Wilmington remains extremely short staffed at this time. The Wilmington Office is also continuing to cover the LPO Program for Sunset Beach,

Pender County, Topsail Beach and Surf City. Kelsey Beachman is stepping into an Assistant Major Permit Coordinator position. Kelsey will be handling infrastructure projects in all 20 CAMA counties and all Major Permits generated out of the Wilmington Regional Office. Kelsey has been a Field Representative since August of 2022 and has a master's from UNCW in Environmental Sciences. Ben Wunderly recently joined the reserve team as Central Sites Manager with site management responsibilities for the Rachel Carson and Permuda Island Reserves. Ben brings strong NC state government and coastal stewardship and education experiences to the job from his service with NC State Parks, Aquarium at Pine Knoll Shores, and the NC Maritime Museum in Beaufort. Ben also previously served on the Rachel Carson Reserve local advisory committee. Ben works in our Beaufort office.

Over the last couple of months, we have sadly lost three coastal management champions, all experts in their field whose generously shared their knowledge and time with us in service to the State. Orrin Pilkey was a renowned coastal geologist formerly associated with Duke and Western Carolina Universities, and founder of the Program for the Study of Developed Shorelines. He was a clear and outspoken advocate for operating with an understanding of the coastal process, especially on barrier islands, and was a long-time active member of the CRC Science Panel. Tom Jarrett was a coastal engineer who served 34 years with the Army Corps' Wilmington District, followed by about 20 years of private sector work. Over his long career Tom was highly regarded by his peers and received numerous state and federal service awards. He was a fixture on the CRC's Science Panel along with Orrin. John Fussell was a well-known coastal birder and naturalist whose work helped support the designation of the Rachel Carson Reserve as a state nature preserve. He generously gave many years of dedicated service to the reserve's local advisory committee, for which we are extremely grateful.

DEQ Secretary Reid Wilson and a few members of his leadership team will be in our area tomorrow and he has plans to stop in and introduce himself.

VARIANCE REQUESTS

Betty Earnest (CRC-VR-25-01), North Topsail Beach, Oceanfront Setback

Jonathan Lucas, Christine Goebel, Esq./Samantha Hamilton, Esq.

Jonathan Lucas gave an overview of the site of the proposed development. Christy Goebel represented staff and stated Samantha Hamilton is present and will represent the Petitioner. Ms. Goebel reviewed the stipulated facts of the variance request and stated staff and Petitioner disagree on all four factors which must be met in order to grant the variance. Samantha Hamilton of Davis Hartman Wright LLP reviewed the stipulated facts which she contends supports the granting of the variance request.

Jordan Hennessy made a motion that Petitioner has shown that strict application of the Commission's rules, standards, or orders would cause the Petitioner an unnecessary hardship. Steve Shuttleworth seconded the motion. The motion failed with three votes in favor (Baldwin, Hennessy, Shuttleworth) and seven votes opposed (Salter, Bryan, Emory, Andrew, Cahoon, Holman, Smith).

Bob Emory made a motion that Petitioner has not shown that strict application of the Commission's rules, standards, or orders would cause the Petitioner an unnecessary hardship. Lauren Salter seconded the motion. Renee Cahoon offered a friendly amendment to allow the Petitioner a structure limited to a 1,000 square foot footprint and 2,000 square foot total floor area. Commissioners Emory and Salter accepted the amendment. The motion passed with eight votes in favor (Salter, Bryan, Emory, Baldwin, Andrew, Cahoon, Holman, Smith) and two opposed (Hennessy, Shuttleworth).

Jordan Hennessy made a motion that Petitioner has shown that hardships result from conditions peculiar to the Petitioner's property. Steve Shuttleworth seconded the motion. Commissioner Hennessy withdrew this motion.

After discussion, the Commission asked that additional facts be provided which take into account the proposed rule language currently under review by the CRC, that the stipulated documents be updated to reflect the applicable setbacks, and to provide notice to the adjacent riparian property owners of any new design.

Jordan Hennessy made a motion to remand the variance request back to staff and Petitioner to bring back additional stipulated facts and documents so that the variance can be heard at the April CRC meeting and re-notice the adjacent property owners. D.R. Bryan seconded the motion. The motion passed unanimously (Salter, Bryan, Emory, Baldwin, Andrew, Cahoon, Hennessy, Holman, Shuttleworth, Smith).

**The Shoals Club (CRC-VR-25-02), Bald Head Island, Sandbags
Tara MacPherson, Christine Goebel, Esq./Todd Roessler, Esq.**

Tara MacPherson gave an overview of the site of the proposed development. Christy Goebel represented staff and stated Todd Roessler is present and will represent the Petitioner. Ms. Goebel reviewed the stipulated facts of the variance request and stated staff and Petitioner agree on all four factors which must be met in order to grant the variance. Todd Roessler, of Kilpatrick Townsend, reviewed the stipulated facts which he contends supports the granting of the variance request. Mr. Roessler also requested that the Commission consider a variance from the imminently threatened requirement to allow the sandbags to remain.

Jordan Hennessy made a motion that Petitioner has shown that strict application of the applicable development rules, standards, or orders issued by the Commission will cause the Petitioner an unnecessary hardship. Larry Baldwin seconded the motion. The motion passed unanimously (Salter, Bryan, Emory, Baldwin, Andrew, Cahoon, Hennessy, Holman, Shuttleworth, Smith).

Jordan Hennessy made a motion that Petitioner has shown that hardships result from conditions peculiar to the Petitioner's property. D.R. Bryan seconded the motion. The motion passed unanimously (Salter, Bryan, Emory, Baldwin, Andrew, Cahoon, Hennessy, Holman, Shuttleworth, Smith).

Jordan Hennessy made a motion that Petitioner has shown that hardships do not result from actions taken by the Petitioner. D.R. Bryan seconded the motion. The motion passed

unanimously (Salter, Bryan, Emory, Baldwin, Andrew, Cahoon, Hennessy, Holman, Shuttleworth, Smith).

Jordan Hennessy made a motion that Petitioner has shown that the variance requested will be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; will secure the public safety and welfare; and preserve substantial justice. D.R. Bryan seconded the motion. The motion passed unanimously (Salter, Bryan, Emory, Baldwin, Andrew, Cahoon, Hennessy, Holman, Shuttleworth, Smith).

Jordan Hennessy made a motion to condition the permit granting a waiver from the imminently threatened criteria. D.R. Bryan seconded the motion. The motion passed unanimously (Salter, Bryan, Emory, Baldwin, Andrew, Cahoon, Hennessy, Holman, Shuttleworth, Smith).

This variance request was granted.

PUBLIC HEARING

15A NCAC 07H .0314 Installation and Maintenance of Wheat Straw Bales for Sand Fencing Heather Coats

Heather Coats stated this hearing is being held to solicit comments on the proposed rule, 15A NCAC 07H .0314, which would allow greater flexibility to local governments, large Homeowners Associations, and government agencies in allowing the use of wheat straw bales as sand fencing. The proposed rules are similar to those for traditional sand fencing which limits their placement to the dry-sand beach and requires placement as far landward as possible. Size limitations and minimum widths of separation are also proposed. The CRC approved the draft rule language at the April 2024 meeting and approved the fiscal analysis in August. The fiscal analysis indicated that the costs estimated could exceed the costs for traditional sand fencing. This rule change is not anticipated to have a significant fiscal impact on State or Federal agencies. Replacement of wheat straw bales would not be required to receive a new permit as long as they are replaced within the same dimensions as the original permit. Individuals would not be eligible to place wheat straw bales on the beach for use as sand fencing. Because the potential impacts to sea turtles and other natural resources are unknown, the proposed rule includes restrictions and additional review requirements to avoid and minimize potential impacts to sea turtles and natural resources. Comments were received at a previous public hearing and during the open comment period from NC Wildlife Resources Commission, Southern Environmental Law Center, Audubon of North Carolina, and the NC Wildlife Federation. The comment period ends April 4, 2025.

Liz Rasheed Southern Environmental Law Center, spoke against the use of straw bales as sand fencing.

Matthew Godfrey, NC Wildlife Resources Commission, spoke against the use of straw bales as sand fencing.

Commissioner Hennessy stated he found it problematic to allow one class of people to install wheat straw bales and not allow another class, such as individual property owners. This could be unconstitutional. Additionally, there may be hesitation by local governments to use the bales as

the costs are higher. WRC has spoken against this rule multiple times, and this could create a conflict if they are reviewing these permit applications, they could comment unfavorably without reviewing facts or location.

CLOSED SESSION

UPDATE ON CRC v. RRC AND 15A NCAC 07H .0508, 07J.1401-.1405, 07J .1501-1503

Neal Andrew made a motion that the CRC go into closed session pursuant to NCGS Section 143-318.11(a)(3) to consult with its attorney regarding the case of CRC v. RRC filed in Wake County Superior Court on November 3, 2023, file number 23CV031533-910 and the RRC's objections to the CRC's rules. Sheila Holman seconded the motion. The motion passed unanimously (Salter, Bryan, Emory, Baldwin, Andrew, Cahoon, Hennessy, Holman, Shuttleworth, Smith).

OCEAN HAZARD SETBACK

History (CRC 25-01)

Ken Richardson

Ken Richardson stated, at the November CRC meeting; National Park Superintendent Dave Hallac spoke about some of the problems in the Outer Banks as a result of erosion. When a structure is lost to erosion, the impact extends beyond the property owner. Adjacent neighbors, beachgoers, and even the smallest creatures living along the shoreline suffer consequences resulting from exposed and failed septic systems and the far-reaching swath of construction material debris. Superintendent Hallac also posed a question, what happens when the CRC's oceanfront setback expires where the forces of mother nature confront stationary structures on land that naturally wants to migrate? This question is not only relevant to the Outer Banks, but also coastwide. While setbacks do not expire, they do shift with the barrier islands as they migrate in response to the forces of mother nature. Because permanent structures remain fixed, they are unable to adapt to these changes in relation to current setbacks. North Carolina has an extensive history of feeling the impacts of coastal erosion along with a growing array of efforts aimed at preventing damage to property, structures, and infrastructure while maintaining public access to public trust lands. To make management more complex, solutions that prove effective in one location may not work in another, potentially making adaptive, site-specific approaches critical for long-term coastal management. To address these challenges, North Carolina has relied on a combination of tools, including beach nourishment, sandbags, and hard erosion control structures. Policy has also played a crucial role. While often met with criticism, policy is essential in balancing environmental resilience, economic stability, and public safety particularly in the dynamic and vulnerable coastal regions of the State's oceanfront and inlets. Since the CRC began developing policy in 1977, it has recognized that this balancing act is one of the most complex in the State. The very ground beneath our feet is constantly shifting, sea levels are fluctuating, populations are growing, habitats are shrinking, and the public costs associated with these changes continue to rise. Management challenges along North Carolina's coast are not unique, but the scale of the issues and problems have grown significantly since the CRC first deliberated policies in 1977. The initial effort to develop policy took eight years, involved many stakeholders, and included five elements within the process. The CRC incorporated self-education, evaluations of management techniques, inventory of data and information, development of consensus on clear objectives, and commitment to a process that includes public

input and reassessment during the time it took to implement the program. As the management program was developed, it expanded to incorporate several key elements. The primary focus was on creating regulations for development within the Areas of Environmental Concern including setbacks, structural standards, and restrictions on shoreline hardening. During early planning discussions, it became evident that land acquisition might also be a necessary management tool, particularly in areas considered too hazardous to develop or difficult to regulate effectively. This prompted deliberations on potential funding strategies such as tax credits to encourage donations, discouraging public investments in infrastructure in certain areas, and efforts were made to influence the National Flood Insurance Program. The program chose to prioritize public education and outreach, with an emphasis on improving understanding of the process and coastal management efforts. From the beginning, the CRC has gone to great lengths to better understand the risks and the areas affected along the oceanfront. Before establishing setback rules, the CRC sought information to assess erosion and the extent of ongoing changes. There was a significant amount of reliable long-term erosion data available from NC State University, the US Park Service, and other sources specifically Dr. Robert Dolan at the University of Virginia who had conducted studies on the northern Outer Banks. However, there was no storm erosion data, which prompted a contract with NCSU to gather additional information. While the storm erosion data proved sufficient for defining the hazard and permit jurisdiction zone, those data alone were not adequate for establishing setbacks or guiding individual permit decisions. An internal study was conducted to identify inlet hazard zones, which would become the IHAs. In a CRC memo dated October 13, 1980, three reasons were identified for establishing setbacks. The first was mitigating losses of life and property resulting from storms and long-term erosion. The second was preventing the encroachment of permanent structures on the public beach. Even if structures are built to withstand worse case scenarios, long-term erosion could potentially leave them positioned on the beach or in the water. The State owns land below mean high water (MHW) and has a legal obligation to protect public interest in the free use of these areas. The public also has the right to use the dry-sand beach. The existence of open, uncluttered beaches is essential to the economic prosperity of many coastal communities as the beaches are the economic centers for recreation and tourism. The last reason for developing setbacks was to reduce the public cost of poorly sited development. If development is located where it is likely to be damaged or destroyed, there are likely to be costs to the taxpayer as well as the owners of the property. The CRC also identified jurisdictional zones, which are referred to in the CRC's rules as AECs. The CRC acknowledged that the areas seaward of the setback should be regarded as highly hazardous and dynamic zones unsuitable for new, permanent structures. The CRC acknowledged that the IHAs are not intended to serve as precise predications of where the shoreline would be in the future, instead they should be considered hazard zones inherently unsuitable for new, permanent construction due to historical trends of shoreline movement caused by erosion and storms. Setbacks are applied inside Ocean Hazard Areas which currently consists of four AECs. The Ocean Erodible Area (OEA) is where there exists a possibility of excessive erosion and significant shoreline fluctuation. Before 2009, this area was calculated by multiplying 60 times the erosion rate plus the 100-year storm recession rate, but since 2009 it is calculated by multiplying the setback factor by 90. The OEA is measured landward from the first line of stable and natural vegetation (FLSNV) or the pre-project vegetation line (PPVL). Approximately every five years, the information to update it is calculated. The Inlet Hazard Areas (IHA) are natural areas that are especially vulnerable to erosion, flooding, and other adverse effects associated with inlet dynamics and require sufficient landward boundaries to encompass migration and erosion

based on statistical analysis and consider previous inlet territory. These are structurally weak areas and have external influences such as jetties, channelization, and beach nourishment. Current IHA boundaries were established in 1979. While the CRC's Science Panel on Coastal Hazards submitted updated boundaries in 2010, 2018, and again in 2025, updates to these boundaries have not gone into effect. Currently the setbacks applied inside the IHA is the erosion rate pulled from its adjacent OEA. The Unvegetated Beach AECs are areas within the OEA where no stable natural vegetation is present due to a major storm. Historically this has served as a temporary AEC until the vegetation re-establishes. The State Port Inlet Management Area AECs are areas which are influenced by federally maintained channels critical for state port operations (Beaufort and Cape Fear Inlets). These went into effect in 2020 and started as proposed IHA boundaries in the Science Panel's 2010 proposal. Like many of the CRC's rules, setbacks have evolved over time since their inception in the late 1970s. While short-lived, the 1978 proposal was to multiply the erosion rate times ten and measure from the dune line. On June 1, 1979, the CRC's setback rules went into effect, which was 30 times the erosion rate setback factor measured from the vegetation line. The CRC felt that a minimum of 60 feet was needed even if the beach appeared to be relatively stable because it was still subject to storms and short-term fluctuations. In 1981, the CRC adopted exceptions to erosion rate setbacks, which came to be known as the small structure exception. In 1983, the CRC made a distinction between large and small structures defined by use. A large structure was considered a 4-dwelling multi-family unit or commercial use. Large structures had to meet a setback of 60 times the setback factor. Small structures were defined as residential use and the setbacks were 30 times the setback factor with a minimum of 60 feet. This served as the basic setback. Leading up to 2009, the CRC recognized that single-family structures were becoming larger, some exceeding 13,000 square feet and that a structure's use should not be the defining factor between large and small size. After a thorough structure size inventory was completed, the CRC amended the setback rules to remove the structure usage and created setbacks defined by structure size and erosion rate. These amendments went into effect in 2009 and are often referred to as the CRC's graduated setback rules. The 2009 update to setback rules was driven by concerns over the risks posed by the growing number of large oceanfront structures. The CRC recognized that larger structures increase the threat to human life and property due to erosion while also contributing to the loss or degradation of public beach areas, natural coastal features, and ecosystems. Additionally, they placed a financial strain on public resources, increasing costs for flood insurance, erosion control, storm protection, disaster relief, and essential services such as water, sewer, and emergency response. Their size and permanence also made relocation increasingly challenging and expensive as shorelines continue to erode. The CRC agreed that a graduated setback approach that put more distance between larger structures and the hazard was needed. Setbacks are measured from one of the following: the first line of stable and natural vegetation; the pre-project vegetation line (formerly the static vegetation line); or the measurement line. You will not see a map of the Ocean Hazard Area because the landward boundary of the OEA is not mapped given that it is measured from the FLSNV, PPVL, or measurement line whichever is applicable and farthest landward, so its boundary is measured in the field and on an as needed basis. A large-scale beach nourishment project is one that exceeds the placement of 300,000 cubic yards of sediment, which requires the establishment of a PPVL that never expires. Upon the completion of a large-scale project with regular maintenance and with reduced storm frequency and intensity, it can be possible for a wider beach to be maintained with oceanward growth of vegetation. Without regular maintenance and/or increased storm intensity and

frequency, the nourished beach will erode and return the hazard to pre-project conditions before it continues even farther landward. The CRC's PPVL was based on the principles that there was evidence that nourished beaches can have a higher erosion rate than natural beaches, no assurance for funding for future nourishment projects would be available for maintenance work as the original project erodes away, and structures could be more vulnerable to erosion damage since their siting was tied to an artificially-forced system. Since 1979, the statewide long-term erosion rate has consistently been approximately two feet per year. While setback policies continue to serve as the foundation for the CRC's oceanfront management rules, the reality is that most of NC's oceanfront communities eventually become dependent on beach nourishment as a way of resetting the erosion clock. When the CRC updates erosion rates, setbacks and the landward boundary of the OEA are updated to reflect current data. These updates also serve as benefits in the form of FEMA CRS credits for maintaining open space between development and the hazard which can be translated into reduced flood insurance premiums. Existing development does not have the luxury of shifting with updated information. While beach nourishment has been a common and relatively effective short-term solution for many oceanfront communities, it is not as common along the developed shoreline on the Outer Banks. North Carolina has approximately 320 miles of oceanfront shoreline and approximately half of that is considered developed. Currently 81% of the communities along the 160 miles of developed shoreline have a history of installing beach fill projects on all or at least a portion of the shoreline within their oceanfront jurisdiction to account for a total of 112 miles of nourished shoreline. 77% have installed large-scale projects placing more than 300,000 cubic yards of material on 108 miles of shoreline. More shoreline is being nourished more frequently, and we are placing greater volumes of sand on the beach. With persistent erosion, rising sea levels, and limited sand resources, the CRC's policy work remains as vital today as it was in 1977. By continuously adapting regulations to account for changing coastal conditions and the increasing costs associated with storm damage and recovery, the CRC continues to play a critical role in trying to balance property rights, public access, and environmental and economic resiliency.

CHAIR COMMENTS

Chair Cahoon welcomed DEQ Secretary Reid Wilson and thanked him for his attendance. Secretary Wilson introduced Chief Deputy Secretary John Nicholson, Legislative Director Emma Hennen, and Director of Public Affairs Sam Chan. Secretary Wilson presented the Order of the Long Leaf Pine to former DCM Deputy Director Mike Lopazanski.

MAJOR PERMITS

White Paper Follow Up (CRC 25-02)

Gregg Bodnar

Gregg Bodnar stated in August 2024, staff presented a report on commenting times and the umbrella review process. Five agencies' comment times were analyzed for applications processed between January 2022 and March 2024. The analysis showed that a majority of final decisions were made after 75 days. This was due to requirements of other permitting agencies, such as DWR and the Corps, that have commenting periods and review clocks that begin after DCM's clock begins. Commissioner Andrew provided feedback and recommendations from stakeholders in October. DCM agrees that there will always be areas for improvement and will continue to identify those areas and seek Commission and public input. Staff value public engagement in our mission and work and appreciate the constructive review and

recommendations provided on the permitting process. We look forward to working with the CRC, CRAC, and other interested parties to continue to increase efficiency in our permit processing. From Commissioner Andrew's commentors we heard about the limited number of staff for the volume of work, resource agency authority conflicts, limited specialization, and increased delays from coordination with other agencies and the potential for overreach. Positive comments included appreciating a single point of contact and streamlined process, DCM's adherence to standards and regulations, enhanced coordination efforts, and expertise and transparency. At the August meeting, staff presented the benefits of the umbrella process which aligns with many of the positives provided in the stakeholder response. The umbrella process provides the applicant with a single regulatory point of contact with the CAMA and/or Dredge and Fill application serving as the DWR 401 and USACE Section 10/404 permits. Under this process the CAMA application and public notice satisfies the DWR and USACE requirements, and DCM and DWR share the permit fee. Stakeholder recommendations included streamlining the processes and procedures, utilizing technology and providing clear communication on timelines for the permitting process. The Division has moved from paper applications sent by the US mail to circulating applications to an ePermit system online with immediate access to data across all offices and agencies. Since the introduction of the ePermit system, staff have used comments and feedback from stakeholders to update the system. Staff also communicate the accepted application as complete date, timeline, review status and any actions by outside agencies that can affect a permit decision to all applicants. Another recommendation was to enhance collaboration and coordination. DCM works closely with other permitting agencies to improve efficiencies in the umbrella process. DCM has created a framework for applications to be reviewed along with the public notice and joint permit fee to streamline the process and reduce duplication and financial costs. DCM also offers a pre-submittal scoping meeting for the applicant to present their project to resource agencies for feedback. These meetings are not mandatory but are offered to reduce potential resource and rule consistency issues prior to application submittal. Stakeholders also recommended investing in staff training and development. DCM does ongoing staff training on the ePermit system, participates in a variety of in-house training courses, and higher-levels meetings such as weekly regulatory staff meetings. DCM coordinates quarterly CHPP interagency meetings that focus on permitting, holds regional Local Permit Officer training courses to provide comprehensive training and will continue to use these avenues and look for options and methods to increase staff and LPO training. Despite recent increased staff turnover and time required to train new staff, DCM makes every effort to meet statutory deadlines, maintain consistency across the program, and provide the best possible customer service to the public. To improve public engagement, as recommended by stakeholders, DCM prioritizes customer service. Our public presence in the field and transparent contact information make staff available to serve the public. Staff are looking into inserting a link in our email signatures to provide the public with opportunities to submit feedback. Another stakeholder recommendation was to leverage data and analytics. The current ePermit system is building out the ability to process metrics. This will provide staff with the ability to provide information concerning development over time or area and assist with questions concerning permit times. The report function will also assist in metrics of permit timing that will be useful in identifying areas of improvement. The last recommendation was to foster innovation and flexibility. Staff strive to be flexible and willing to work through challenges to find solutions. Currently staff have permit pathways that require limited to no agency review under 17 General

Permits. Staff work with permitting agencies to provide authorizations that can be identified on the CAMA permit.

Permit Renewals and Extensions (CRC 25-03)

Gregg Bodnar

Gregg Bodnar stated that for permits that have not expired where substantial development has occurred on site since permit issuance, the permit timeline may be extended for two years for typical permits, up to five years for maintenance dredging permits, and ten years for multi-phased beach nourishment permits. General Statute 136-44.7B applies to permits issued to the NCDOT for projects with a Transportation Improvement Program (TIP) designation, removing the expiration date for CAMA and Dredge and Fill permits issued under this statute. NCDOT projects that are not TIP projects follow the same procedures as non-DOT projects. Extensions may be granted as many times as necessary to complete the initial development or to continue the maintenance or project implementation. Substantial development is defined under 15A NCAC 07J .0404(b) as development that has progressed beyond basic site preparation and construction has begun and is continuing on the primary structure authorized under the permit. For permits that have not expired and where no substantial development has occurred since the last permit action, the permit actions and requests can be circulated to the commenting State resources agencies for review to determine if changes in circumstances or development standards make the project inconsistent based on circumstances or development standards. Depending on the age of the permit and the size of the file, this can take hours for staff to scan and distribute. To process a renewal request, the applicant provides a letter with a statement of the completed and remaining work, a statement that there has been no change of plans since the issuance of the original permit other than changes that would have the effect of reducing the scope of the project, notice of any changes in ownership of the property, and a statement that the project is in compliance with all conditions listed on the current permit. Renewal requests are sent to the NC Division of Water Resources and the US Army Corps of Engineers to notify those permitting agencies of the renewal request. Circulation of renewal requests allows these permitting agencies an opportunity to notify DCM of the state of those agencies' permits. Over the years, DCM has received requests to renew expired permits that range from one day past expiration to multiple years past expiration. To handle these requests, DCM has reviewed the project specifics and determined a path forward ranging from issuance, utilization of the renewal circulation procedures for no substantial development, and denial of the renewal. 7J .0404 uses the terms extension and renewal. Specifically, the rule uses renewal when referring to dredging projects and extension when referring to all other development types. Staff use these two terms interchangeably. This can create a situation where the rule can be unevenly applied. DCM would like to review the rule and seek the Commission's input to potential amendments to 7J .0404. Potential amendments include clarifying that only active permits may be renewed or specify potential avenues to renew an expired permit, and maintenance excavation would not be subject to the substantial development clause and could be renewed if expired. Staff would also like the Commission's interpretation of extension and renewal to eliminate terminology ambiguity. Finally, DCM would like to raise the renewal fee to \$250 to account for increased costs and effort. Approximately 60 renewals are processed per year with approximately 5-10 of those renewals requiring circulation. The renewal processing fee has increased in the past, starting with \$50 since the inception of the fee scale in 1989, to the current \$100 fee in 2001.

Commissioner Andrew spoke in favor of renewing dredging projects and renourishment projects. This will eliminate the need to repeat environmental and other costly testing. Commissioner Hennessy asked about the need to acquire reauthorizations from DWR and USACE. Gregg replied that the Division handles the requests for reauthorization for the applicant if other permits are also expired. Commissioner Shuttleworth spoke in favor of these proposed amendments to reduce burdens on applicants. Gregg stated staff will look at these amendments and see if there are additional opportunities to improve.

PUBLIC INPUT AND COMMENT

Brian Harris of Buxton Civic Association spoke in favor of repairs to the jetties in Buxton and invited the Commission to come to Buxton for an in-person site visit.

PETITION FOR RULEMAKING

Petition for Rulemaking Procedures (CRC 25-11)

Mary Lucasse

Mary Lucasse reviewed memo CRC 25-11 and reminded the Commission that the only decision that is required by the Commission is to determine whether to grant or deny the Petitioner's rulemaking petition. If the Commission denies the rulemaking petition, the petitioner may request judicial review in superior court. If the Commission grants the rulemaking petition, DCM will begin the usual rulemaking process required by NCGS 150B-21.2 including publishing the proposed amendment, preparing a fiscal note, and sending the proposed amendment out for public hearing and comment. The rule would come back to the Commission for a final decision on whether to adopt the proposed amendments to 15A NCAC 07H .0206.

Request to Amend 15A NCAC 07H .0206(a) Estuarine Waters (CRC 25-12)

Nelson Paul

Nelson Paul stated the matter before the Commission is ditches dug in the high ground on private property. The basic problem is DCM is applying rules to tidal ditches as if they were an AEC. At a policy level this can render hundreds of acres unbuildable due to setbacks from the ditches. Mr. Paul stated he is withdrawing the petition for rulemaking and will request a declaratory ruling from the CRC on this issue.

RULEMAKING

Permanent Rulemaking 15A NCAC 07H .0508 Jockey's Ridge AEC (CRC 25-07)

Daniel Govoni

Daniel Govoni stated during the periodic review process; this rule was vacated from the NC Administrative Code. The CRC pursued emergency and temporary rulemaking to reinstate the protections provided by having this area designated as an Area of Environmental Concern. A new boundary map has been completed, and the use standards have been updated. OSBM has approved the fiscal analysis. Staff is asking the Commission to approve 07H .0508 and its associated fiscal analysis for public hearing.

Jordan Hennessy made a motion to send 15A NCAC 07H .0508 to public hearing. Larry Baldwin seconded the motion. The motion passed unanimously (Salter, Bryan, Emory, Baldwin, Andrew, Cahoon, Hennessy, Holman, Shuttleworth, Smith).

15A NCAC 07H .0309 Use Standards for Ocean Hazard Areas: Exceptions (CRC 25-08)

Ken Richardson

Ken Richardson stated the Commission first approved these amendments in April 2023, followed by the approval of the accompanying fiscal analysis in June 2023. Both were scheduled for a public hearing as part of the formal rulemaking process. This effort was temporarily paused before the amendments could be adopted. At the November 2024 CRC meeting, the Commission revisited this issue following a variance request and directed staff to reintroduce the proposed amendments for consideration. This decision effectively restarts the rulemaking process given the lapse in time. Prior to August 1, 2022, the Commission's rules essentially contained two small-structure exceptions that allowed for the siting of new construction when proposed development could not meet the current setback requirement but could meet the setback under conditions specified in one of the two applicable sets of rules. Each were commonly referred to as the small-structure exceptions, and both defined small-structure as one being no greater than 2,000 square feet. The square footage limitation was the singular common condition, while other conditions in these rules differed and were a source of confusion. 7H .0309(b), which is the current rule, defines use standards for Ocean Hazard Area Exceptions. This applies to lots platted before June 1, 1979, requires a setback of 60 feet, must be behind the toe of the frontal dune, be no greater than 2,000 square feet with a footprint limited to 1,000 square feet, and placement is determined by the landward most adjacent neighbor. 7H .0104 was repealed on August 1, 2022. This rule provided an applicant the option of using the setback in place at the time when the lot was created, but still limited the structure to 2,000 square feet. The proposed amendments today would remove the June 1, 1979, condition and remove the 1,000 square foot footprint condition. If approved, staff will update the fiscal analysis for CRC and OSBM approval. Without any unforeseen obstacles, these amendments could become effective in October.

Neal Andrew made a motion to change the total floor area of the structure as outlined in 7H .0309(4)(B) from 2,000 to 2,500 square feet and accept the other changes as proposed. Larry Baldwin seconded the motion. The motion passed with eight votes in favor (Salter, Emory, Baldwin, Andrew, Cahoon, Hennessy, Holman, Smith) and two opposed (Bryan, Shuttleworth).

Neal Andrew made a motion to approve amendments to 15A NCAC 07H .0309 for public hearing. Larry Baldwin seconded the motion. The motion passed with nine votes in favor (Salter, Bryan, Emory, Baldwin, Andrew, Cahoon, Holman, Shuttleworth, Smith) and one opposed (Hennessy).

15A NCAC 07H .0306 Ocean Hazard AEC Form (CRC 25-09)

Cameron Luck

Cameron Luck stated this is a review of 7H .0306 which contains the General Use Standards for the Ocean Hazard Area. At the last CRC meeting, there was discussion on whether portions of the current Ocean Hazard Area (OHA) rule are still being used or enforced. Following that discussion, staff were directed to review 7H .0306 to identify any areas that may require attention. Two sections in particular were identified including 7H .0306(e) and (g). The Ocean

Hazard Area was established under 15A NCAC .0300 in accordance with the Coastal Area Management Act (CAMA) and includes four AECs that occur within the natural hazard areas along the Atlantic Ocean Shoreline. These include the Ocean Erodible Area, the Inlet Hazard Area, the Unvegetated Beach Area, and the State Ports Inlet Management Area. 7H .0306 provides staff with general use standards for determining permitability of proposed development within these four AECs. These standards include everything from oceanfront setbacks to permitting requirements and are utilized by staff during the permitting process in these areas. The main objective of the Ocean Hazard Area rules is to ensure that any activity or development in these areas aligns with the safety and environmental preservation standards set within the CAMA. 7H .0306(e) requires property owners to acknowledge they are aware of the risks that come with building within the OHA. This acknowledgement must be made in writing to DCM and should include language that the property owner understands the liabilities and that the CRC does not guarantee the development's safety. Currently, this acknowledgement is accomplished through the Ocean Hazard AEC Notice Form, which staff provide to the property owner during the permit application period. The form provides the property owner with information specific to their shoreline, including flood water depths, shoreline movement, and current erosion rates along with preferred protection measures that can be taken should their property become threatened. On the back of the form is a brief one-page guide for development along the oceanfront that can be reviewed by the property owner. This is the only form that must be reviewed and signed by the property owner, not by the agent or any other representative. This form is a convenient and simplified document that provides educational information directly to those considering developing in the OHA while also meeting the current requirements of 7H .0306(e). There is no coastal hazards real estate disclosure requirement. This form may be the only document required to be signed by the owner acknowledging existing coastal hazards present at the site. This form has not been updated for content since 2010 and could use significant revision. Also included on the Ocean Hazard AEC Notice Form is information about the requirement for the removal or relocation of imminently threatened structures. This language is based on 7H .0306(g) which requires a condition to be placed on permits issued within the OHA. Of the two sections being reviewed by staff, 7H .0306(g) is of particular interest since it is not often applied or enforced. In general, the infrequency of use is a product of the various other solutions available to property owners interested in protecting their property, including shoreline recovery, both through natural processes and beach renourishment. In the memo provided to the CRC, there is an error stating the act of placing sandbags pauses the requirement for removal or relocation of an imminently threatened structure. The placement of sandbags does not guarantee a structure is no longer considered imminently threatened but instead offers immediate protection and gives the property owner an opportunity to potentially promote rapid beach or dune accretion or explore other options including nourishment or relocation. This rule is a tool that staff would like to keep in our enforcement toolbox for when all other protective measures are no longer effective. 7H .0306(e) provides an effective educational mechanism to property owners and gives DCM written documentation that the owner acknowledges the risk of development in an OHA. Staff's recommendation is for the document to be updated to more accurately reflect the current rule. 7H .0306(g) provides DCM with a useful tool when all other options for protecting an imminently threatened structure are exhausted. While it is not frequently used, when it is needed it should be available. Staff are not recommending any substantive changes to 7H .0306, however there are two technical corrections that need to be made in the rule. If the CRC

approves, DCM will submit the technical change requests to OAH for correction and will have the history note updated.

Earl Smith asked how the Ocean Hazard AEC Notice Form is passed on to owners if the property is sold. Cameron responded that there is no mechanism to require this information be included as part of a deed. Christy Goebel stated the Real Estate Commission included flooding notice as part of realtor disclosure, but there was no interest in including coastal hazards or any hazard that did not affect all 100 counties of North Carolina. Chair Cahoon stated since it has been some time since this issue was raised, perhaps a letter should be sent to the Real Estate Commission asking if the property is located in the ocean hazard AEC that this form should be part of the disclosure.

Bob Emory made a motion to approve the technical changes to 15A NCAC 07H .0306. Sheila Holman seconded the motion. The motion passed unanimously (Salter, Bryan, Emory, Baldwin, Andrew, Cahoon, Hennessy, Holman, Shuttleworth, Smith).

Earl Smith made a motion that the Commission is in favor of having an owner who signs the notice form provide information regarding coastal hazards to potential buyers and asking the Real Estate Commission to include this information as a mandatory part of real estate disclosures. Sheila Holman seconded the motion. The motion passed unanimously (Salter, Bryan, Emory, Baldwin, Andrew, Cahoon, Hennessy, Holman, Shuttleworth, Smith).

Chair Cahoon asked staff to follow up and provide information on whether the Ocean Hazard Notice Form could be attached as part of a deed.

Periodic Review of 15A NCAC 7B CAMA Land Use Planning – Public Comments and Final Report (CRC 25-10) Rachel Love-Adrick

Rachel Love-Adrick stated the Division has reviewed, and the Commission has approved, the initial classifications of Subchapter 7B to determine whether the rules are necessary or unnecessary. All the rules in 7B were classified as necessary and a 60 day public comment period was held on these initial classifications. Today the Commission is considering the final report classifying the 7B rules as necessary. No public comments were received during the comment period. Following the CRC's approval of this final report, the report will be submitted to RRC for review and then to the Administrative Procedures Oversight Committee. Following these reviews, a schedule for readoption will be established by RRC.

Sheila Holman made a motion to approve the Final Report on the Periodic Review of 7B. Neal Andrew seconded the motion. The motion passed unanimously (Salter, Bryan, Emory Baldwin, Andrew, Cahoon, Hennessy, Holman, Shuttleworth, Smith).

LEGAL UPDATE

Update on Litigation of Interest to the Commission (CRC 25-14)

Mary Lucasse

Mary Lucasse provided an update to the information included in memo CRC 25-14. In CRC v. RRC, the RRC has filed a notice of appeal to challenge the judge's order entering judgment for

the CRC. There are four petitions for judicial review before the courts. We have hearing dates on the CRC's motions to strike affidavits and documents in three of these actions. Summaries of the third party hearing requests and variance requests received in 2024 were provided to the Commission for review.

Additionally, there is an opinion issued by the North Carolina Court of Appeals that may be of interest to the CRC relating to the Open Meetings Law. In that case, council members exchanged emails, and a claim was made that these emails could be a violation of the Open Meetings Law. The court concluded that it was not a violation and that limited communication that occurs hours or days apart does not qualify as a meeting and because there was not a quorum of the council members participating, there is no violation of the Open Meetings Law.

OLD/NEW BUSINESS

Coastal Resources Advisory Council Nominations (CRC 25-15)

Chair Cahoon stated fifteen current members of the CRAC have asked to be reappointed and five new nominations have been received from the solicitation for nominations sent out by DCM. Those names have been provided to you in your packet. There are 20 spots on the CRAC, and these recommendations and nominations would fill all 20. Larry Baldwin stated the CRAC plays an instrumental role in the Commission's business. Chair Cahoon stated that attendance and participation play a large role in the success of the CRAC.

Larry Baldwin made a motion to appoint the 20 individuals as indicated in CRC 25-15 to the Coastal Resources Advisory Council. Lauren Salter seconded the motion. The motion passed unanimously (Salter, Bryan, Emory, Baldwin, Andrew, Cahoon, Hennessy, Holman, Shuttleworth, Smith).

Chair Cahoon reminded the Commission of the April 15, 2025 due date to submit Statements of Economic Interest to the State Ethics Commission. The next regularly scheduled meeting of the CRC will be April 30-May 1 in Manteo.

D.R. Bryan stated he would be interested in the Commission taking a field trip to Buxton to see the jetties that were mentioned during public comment by the Buxton Civic Association. Larry Baldwin agreed a trip to Buxton would be worthwhile. Jordan Hennessy stated a stop in Rodanthe to see the National Seashore with the Park Service Superintendent Dave Hallac would be a good addition. Mary Lucasse advised the Commission that any field trip with a quorum of Commissioners would be required to be noticed to the public.

With no further business, the CRC adjourned.

Respectfully submitted,


Tancred Miller, Executive Secretary


Angela Willis, Recording Secretary