

NC COASTAL RESOURCES COMMISSION (CRC)

January 13, 2010

Hilton

N. Raleigh, N.C.

Present CRC Members

Bob Emory, Chairman

Joan Weld, Vice-Chair

James Leutze

Chuck Bissette

Renee Cahoon

Charles Elam

David Webster (present at 1:30 p.m.)

Veronica Carter

Melvin Shepard

Ed Mitchell

Jerry Old

Bill Peele (present at 1:45 p.m.)

Present CRAC Members

Dara Royal, Chair

Frank Rush, Vice-Chair

Bob Shupe

Charles Jones

Tim Tabak

Christine Mele

Bill Morrison

Joe Beck

Webb Fuller

J. Michael Moore

Harry Simmons

Bert Banks

Penny Tysinger

Judy Hills

Tracy Skrabal

Spencer Rogers

Joy Wayman

Renee Gledhill-Earley

Phil Harris

Travis Marshall

Present Attorney General's Office Members

Jennie Hauser

Christine Goebel

CALL TO ORDER/ROLL CALL

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

Angela Willis called the roll. Bob Wilson and Lee Wynns were absent. There were no conflicts or appearance of conflicts stated by Commissioners. Based upon this roll call, Chairman Emory declared a quorum.

MINUTES

Melvin Shepard made a motion to approve the October 2009 Coastal Resources Commission meeting minutes. Ed Mitchell seconded the motion. The motion passed unanimously (Weld, Leutze, Bissette, Cahoon, Elam, Old, Carter, Shepard, Mitchell) (Webster, Peele absent for vote).

EXECUTIVE SECRETARY'S REPORT

DCM Director Jim Gregson gave the following report.

Terminal Groins

The engineering firm, Moffatt & Nichol, is continuing their work on the CRC's terminal groin study, including working with the CRC Science Panel on the study parameters and focus of the project. The second of five public hearings on the study was held on December 16 in Kill Devil Hills. The public hearing was well-attended and has prompted a number of public comments. All comments received to date, along with a list of all future meetings, are available on the terminal groin study page of DCM's web site. The third public hearing on this topic will take place this afternoon at 4:30 p.m. Moffatt & Nichol will be providing a more thorough update later this morning. Their draft report is due to the CRC on February 1.

SLR Forum

Tomorrow and Friday, DENR and DCM will host a Science Forum on Sea Level Rise featuring distinguished speakers from North Carolina, as well as invited speakers from other states. As part of the forum, the CRC Science Panel will release a preliminary report on the current and projected rates of sea level rise in North Carolina. The report will project sea level rise ranges in 25-year intervals through 2100. The meeting will begin Jan. 14 at 8:30 a.m. with welcoming remarks from DENR Secretary Dee Freeman and DENR Assistant Secretary Robin Smith. The forum will take place here at the Hilton. Presentations include a history of sea level and shoreline change in North Carolina by Dr. Stanley Riggs, East Carolina University; a primer on how sea level rise is measured by Dr. Benjamin Horton, University of Pennsylvania; and a special presentation on understanding climate and sea level rise projections by Dr. Virginia Burkett, chief scientist for Global Change Research and co-lead author of the United Nation's Intergovernmental Panel on Climate Change Third and Fourth Assessment Reports. The forum will also feature a poster reception on January 14, which highlights sea level rise research in North Carolina and the United States.

\$168,000 Awarded for Kitty Hawk Woods

The U.S. Fish and Wildlife Service awarded North Carolina a coastal protection grant of \$168,000 to help add 15.97 acres to the Kitty Hawk Woods component of the North Carolina Coastal Reserve System. North Carolina's Natural Heritage Trust Fund is providing the remaining half of the cost. The site, called the Hard Tract, contains two globally imperiled plant communities including maritime swamp and maritime deciduous forest. The grant is one of 25 awarded across the country this week as part of the 2010 National Coastal Wetlands Conservation Grant Program, totaling \$19.2 million.

NOAA NERRS Review

The National Oceanic and Atmospheric Administration's Office of Ocean and Coastal Resource Management (OCRM) conducted a periodic evaluation of the North Carolina National Estuarine Research Reserve Program per Section 312 of the Coastal Zone Management Act. The focus of the evaluation was on how DENR is addressing NOAA's regulations governing the NERR's, the NERR Management Plan, and the terms of the federal financial assistance awards. When the review is finalized they will also assess the North Carolina NERR's progress in addressing recommendations contained in the most recent Section 312 evaluation findings dated September 2005. In addition to these broad programmatic criteria the evaluation team is assessing the Reserve's progress in addressing specific issues related to Reserve operations and management

including the Reserve's general administration including grants and fiscal management, facility development and operations planning, implementation of the Reserve's research monitoring and education programs, Reserve staffing needs, the manner in which the Reserve coordinates with other governmental and non-governmental organizations and programs in the State and region, and the major accomplishments during the review period. The evaluation will cover the period between December 2004 and November 2009. The evaluation included a week long site visit in which the evaluation team met with partners and moderated two public meetings. The final recommendations of the evaluation should be coming from NOAA over the next couple of months.

SE North Carolina Red Fox Symposium

The North Carolina National Estuarine Research Reserve's Coastal Training Program will host a free workshop, Southeast North Carolina Red Fox Workshop January 19 & 20, at the New Hanover County Cooperative Extension Arboretum Auditorium. The workshop will present information regarding red fox life history; hunting and trapping regulations; recent impacts to turtle and bird resources; and current management approaches, successes, and challenges. Registration is required. Please visit the Reserve web site at www.nccoastalreserves.net for the agenda and to register.

Cowell Judicial Review

Judge Ridgeway of Wake County Superior Court last month upheld the CRC's final agency decision in a Judicial Review appeal of Henry S. Cowell III and Carolyn E. Dressler v. Division of Coastal Management and Earl and Mary Jane Westphal. This case was a challenge by the third party next door neighbors to a permitted pier at the Westphal property. Former Chairman Hackney granted the Petitioners the right to file an Administrative hearing in June 2006. The 10-day long hearing took place in the fall and winter of 2007-08, with the ALJ ultimately upholding Staff's issuance of this CAMA General Permit for a pier in Pamlico County. The primary issue in the case was whether DCM staff rightly considered and balanced the DWQ buffer rules with the CRC's coastal wetland rules in making the permit decision. The CRC upheld the ALJ's decision affirming Staff's issuance of the permit at the September 2008 meeting. Petitioners filed this Judicial Review and the hearing was held in June 2009 in Raleigh. I would like to thank Staff and Christy Goebel for all of their work on this case. It was very time consuming. There was a lot of time spent doing depositions and testifying in court.

Staff News

Carol Price has joined the Coastal Reserve staff in the Beaufort office. Carol started work on November 16 and is working on our CICEET grant focusing on estuarine shoreline stabilization research and education. Carol earned a BS in Marine Science from the University of South Carolina and a Masters Degree in Fisheries from Clemson University. She has conducted research on salmon behavior in Oregon for 5 years and received her PhD in Fisheries Science from Oregon State University. For the last 3.5 years she worked for the NC Wildlife Resources Commission as the state's Wildlife Action Plan Coordinator. Kristen Hall will be joining DCM this summer as part of a paid summer internship through DENR's REACH program. Kristen will be completing her Bachelor Degree in geology at NC State University in May and will start her Master of Science program in geology at UNC Wilmington this fall. Both of her degrees have and will focus on coastal geological processes. Kristen will be working in the Raleigh office with DCM staff member Jeff Warren on shoreline trend analysis to assist with DCM's erosion rate update project. Jeff and Kristen also will be collaborating with DCM GIS specialist Ken Richardson in Morehead City.

CHAIRMAN'S COMMENTS

Chairman Emory stated he has had a couple of opportunities to do some coastal business since our last meeting. He stated he attended the science panel meeting that was devoted to the terminal groin study. It was a spirited meeting with a full interchange of ideas. Everyone had a chance to say what was on their mind. We look forward to the draft report in February. Jim mentioned the NOAA review of the Reserve program. As part of that review, I met with the NOAA people and was pleased to be able to give them my assessment of the program. There are no variances or contested cases on the agenda today, but we will discuss wind and have the opportunity to move some permitting rules ahead. There will be a sea level rise science forum for the next two days if you are able to attend.

Jim Leutze stated he attended the offshore energy meeting and had a very good discussion about coastal infrastructure and what the state ports would be able to do. We also had a report from the League of Municipalities which said that people haven't thought about this. We have not really looked hard at rules and regulations for planning what would be involved if energy was going to come onshore in our community or in our county. Carteret County has done a little bit more than some of the others, but the overall message was that the public is not thinking about this. We have a vested interest in what is going to go on if there is infrastructure. Some people may say that this a long way down the road. As far as oil or natural gas is concerned, once the State agrees or supports the idea of drilling offshore we have essentially agreed that if oil and gas are found they will come onshore. It may be fifteen or twenty years before large amounts of oil and gas come onshore, on the other hand the thinking about it and education should be going on now. Once the agreement is made then the implications will follow from it. I know that we have an educational mission and I think that we need to do everything we possibly can to encourage our local communities and our counties to be thinking about this issue. Land use planning is the best avenue to encourage public input. If you say that the land use plan must include some indication of what you are going to do if you have major natural gas pipelines coming onshore in a community it would get people's attention.

STATIC VEGETATION EXCEPTION REQUESTS

Town of Ocean Isle Beach (CRC 10-01)

Christine Goebel

Christine Goebel of the Attorney General's Office presented Staff's recommendation on the Town of Ocean Isle Beach's static vegetation line exception request. Ms. Goebel stated the static line exception rules went into effect last summer. These rules allow a town to demonstrate to the Commission the history and future nourishment projects through four factors. If the exception is granted by the CRC then the town would use the on the ground vegetation line instead of the pre-nourishment static line with some development limitations. The Town of Ocean Isle Beach is primarily located on a barrier island which is about 5.8 miles long and .6 miles wide with an area on the island of approximately 2.7 square miles. It is bordered on the north by the Intracoastal Waterway, on the south by the Atlantic Ocean, on the west by Tubbs Inlet and on the east by Shallotte Inlet. The current static line extends for approximately 3.2 miles of shoreline and is mostly in the eastern and middle parts of the island. The initial static line was surveyed in December of 1999 before the initial 2001 nourishment project. That line was changed in April 2008 when the CRC adopted rules specifically for Oak Island and Ocean Isle Beach. Currently both of these communities use the vegetation line shown on June 1998 aerial photography as their static line. The erosion setback on Ocean Isle Beach is primarily two feet per year; however there is a section of the static line at the east end that is 4.5 feet per year average annual erosion. The static line area has approximately 273 oceanfront lots and based on

2004 aerial photography there are estimated to be 70 developed lots and 10 vacant lots that could benefit from the static line exception.

Ms. Goebel reviewed the first factor of reviewing the history of nourishment projects at Ocean Isle Beach. The initial project was completed February – May 2001. This is an Army Corps of Engineers fifty year project. The initial project placed nearly two million cubic yards over three miles of shoreline. The project was scheduled for maintenance every three years under the Corps' contract; however the initial project performed so well that the Corps delayed maintenance in 2004. The first maintenance cycle was the winter of 2006-2007. The second maintenance cycle is planned for the winter of 2009-2010 and should start within the next few weeks. The second factor addresses the plans and designs for initial, past and planned maintenance. The project includes a dune with a crown width of 25 feet at an elevation of 9.5 feet for a distance of 5,150 feet. The dune is fronted by a berm with a width of 50 feet and 7 feet tall. To the west of the main area there shall be a berm with a crown width of 50 feet at elevation 7 feet for a distance of 2,400 feet. The dune and berm shall have transition areas of 4,200 feet long on the east end and 2,800 feet long on the western end. The third factor deals with sand source quality and quantity. This is a federal project so the sand quality will look at consistency review standards and not sediment criteria. Based on Corp data and from the past quality of the sand received from the Shallotte Inlet borrow site, Staff is comfortable that the sand quality is compatible for this project. Staff looked at the fact that there was sufficient sand for the initial project and the first maintenance cycle to determine that there is a sufficient sand source. Historically Ocean Isle Beach has been the only user of the Shallotte Inlet sand source and that is likely to be the case in the near future. The fourth factor addresses financial resources. This is a fifty year Corps project and the financial split is 65% federal, 35% state and local, and of this state and local portion the state has been paying 75% to the Division of Water Resources and the Town is covering 25%. This formula was used for the 2001 initial project. The Town funds its local share through a beach nourishment fund. The present balance in the fund after the 2009-2010 maintenance had been paid was \$2.1 million. At the current funding scheme and assuming the Town's continued funding of its beach nourishment fund, Staff has concluded that funding is sufficient. The Town also presented two other scenarios for funding. Staff has some concerns about these other two scenarios. The CRC has the opportunity to revisit this static line exception in five years to continue using it if it is granted.

Elva Jess, Counsel for the Town of Ocean Isle Beach, stated Ms. Goebel did an outstanding job presenting the Town's position and does not have anything to add. The Staff of the Town has been providing information to answer any questions that DCM had, specifically with regard to financing, and these questions have been answered by the Town to Staff's satisfaction. We believe the Town has met the four criteria for the purposes of securing a static line exception.

Charles Elam made a motion to approve the Ocean Isle Beach static vegetation line exception request as proposed. Jerry Old seconded the motion. The motion passed unanimously (Mitchell, Cahoon, Old, Bissette, Weld, Shepard, Carter, Elam, Leutze) (Webster, Peele absent for vote).

PRESENTATIONS

CRC Study of the Use of Terminal Groins – Update
Paul Tschirky, Moffatt & Nichol

Paul Tschirky of Moffatt & Nichol stated the second part of House Bill 709 stated the Coastal Resources Commission will conduct a study on the feasibility and advisability of the use of the

terminal groin as an erosion control device. There were six points addressed in the Bill. The first part was to look at the effectiveness of terminal groins in North Carolina. The second was to look at the environmental impacts of these structures and what effect they have on the natural habitat and environmental resources. The third part was to look at the engineering techniques and construction methods. The next three points of the legislation were to look at the economic impact, the construction and maintenance costs, and whether these structures are applicable or should be limited to areas where you have a dredged navigation channel. The study team that is gathering the data for this is comprised of Moffatt & Nichol to look at the coastline engineering and physical aspects, Dial Cordy and Associates will look at the environmental aspects, Dr. Duncan Fitzgerald, an expert on coastal inlet geology and Dr. Dumas will contribute his expertise on economics. The CRC and CRAC have provided guidance to the study team and will ultimately pull together recommendations that go forward. The science panel has also provided insight into the scoping, peer review, and feedback on selecting study sites. Next week we have a meeting with them to present the preliminary analysis. The five sites chosen were Oregon Inlet, Fort Macon, Amelia Island, Captiva Island and John's Pass. The five study sites have been examined with regard to physical processes. We have looked at shoreline change in these regions and tried to assess the volume changes. The next part was looking at profiles at each of these sites. We then try to come up with a relationship between shoreline recession versus the volume that is associated with that. Wave and tide information as well as storm activity and sediment transport were looked at in each location. The geologic framework could have a significant impact on the behavior of the system. The structural characteristics are being looked at for each of the five sites.

Layton Bedsole of Dial Cordy and Associates stated the approach was to analyze pre and post-construction data. In a couple of instances we looked at neighboring inlets and neighboring shorelines to assess data. An appendix will be included to show all sources and all contacts made. We also used NOAA's Environmental Sensitivity Index as one of our data sources. The CRC has set up a subcommittee and tasked the Science Panel to look at the data prior to delivery to the full CRC. The Science Panel picked the sites and we have assessed the sites.

Paul Tschirky stated the team will present all the data that we can find. If you have an old site then there may be a lot of historical aeriels and maybe some shorelines that were not necessarily related to the groins. Some of these older sites pre-date the federal environmental regulations which required monitoring. Some of the older sites do not have a lot of monitoring data on the environmental side and maybe the physical side. On the newer sites where environmental assessments are now required we do not have a big database post-construction because they are newer. The third task is to look at construction techniques. This looks at the literature to see what has been done at these five sites, how the structures are built, height and length, and porosity of the structure. The next part is the economic study. This will look at the impacts of erosion caused by shifting inlets to state, local and private sectors. The fifth task is to look at the initial construction and maintenance costs. The sixth part is a specific question that asks about the terminal groin location and should these only be used at dredged inlets or are they also applicable to more natural inlets. There have already been two public hearings and another scheduled for this meeting. There will be two additional public hearings. There will be one at the CRC meeting on February 17 and at the CRC meeting in March in Sunset Beach. The Division of Coastal Management website is an excellent resource for information on the project including all presentations, public comments, upcoming meetings and public hearings. Public input can be submitted through e-mail to Jim Gregson in his role as the Executive Secretary of the Commission. The working draft report is due to the Commission on February 1, 2010. The final draft is due March 1, 2010. The next steps include a meeting next week with the Science Panel where we will go over some of the preliminary analysis. A Science Panel meeting and a

CRC Subcommittee meeting will occur to review the draft report prior to the February 17 meeting of the full Commission.

Governor's South Atlantic Alliance
Jim Gregson

Jim Gregson stated this is a process that started about three years ago. Dr. Leutze and former Secretary Bill Ross were instrumental in the formation of this Alliance. There was recognition three years ago that the south Atlantic region was the only region that was not pursuing a regional partnership. The states of North Carolina, South Carolina, Georgia and Florida wanted to engage the Executive Branch of government to look at the issues that affected all four states and to try to proceed as quickly as they could with some regional collaboration. There are so many issues in this eco-region that affect all four states. There is nothing that goes on in terms of water quality, economics, and hazards that affect just one state at a time. A partnership agreement was signed by all four states in May of last year. There was a formal announcement made October 19, 2009 at the Coastal States meeting in Charleston South Carolina. This agreement received both regional and national attention. This meeting was hosted by South Carolina DEHEC Commissioner Earl Hunter. DENR Secretary Dee Freeman and former DENR Secretary Bill Ross attended the meeting. There were also representatives from the White House in attendance. The South Atlantic Alliance has formed a website thanks to South Carolina Sea Grant with some funding from NOAA. The main issue that has been discussed is that the Alliance would be complimentary to the ongoing efforts that are occurring and that we would not just look at issues in the ocean. This will be a blue water to white water effort. The states will retain their policy making decision on their own. The Alliance is not a governing body and will not dictate to the individual states how they will regulate things within their state. The Alliance will attempt to compliment ongoing regional actions and will not replace the ongoing regional actions. The Alliance is not insular and does not maintain a single priority at the expense of the priorities of the individual states. The Governors of each state will form the executive group. There is a steering group that is one member from each state that is appointed by the Governors. There are also working teams that will work on the four priority issues that have been identified by the Governors of the four states. Then throughout the entire process there will be input from stakeholder groups. The discussion of priority issues started about two years ago with a meeting of the executive planning team. The priorities of the Alliance are very similar to the priorities of NOAA, with the exception of arctic issues, and with Sea Grant's priorities. The priorities can be changed as the issues with the four states change. Each priority area has a team working on it. Each state is assigning one member to each priority team. In North Carolina, CRAC member Anne Deaton is assigned to the healthy ecosystem team. DCM District Planner Maureen Will is on the working waterfront team. Dianne Reid with the Division of Water Quality is on the clean coast and ocean team. DCM Policy Analyst Tancred Miller is on the disaster resilient community team. We have a very big presence on the working teams. Over the summer there were workshops held in all four states that were conducted exactly the same way and were facilitated by representatives from NOAA's coastal services center. The idea was to take the four priority issues and come up with some actions for those issues that we can take to the executive planning team to create the Governor's action plan. All the information that came out of the workshop was categorized into a fairly lengthy document and prioritized based on the votes from each of the work groups in each of the states. The executive planning team met last week for two days in Jacksonville, Florida and came up with a final list of priorities that will be included in the Governor's action plan. The final action plan will be done this spring and summer. Then we will begin to work with the supporting partners. Hopefully the implementation plans will be initiated this summer. There is some work being done currently by the CSO to recommend funding on Capitol Hill for the regional partnerships for the upcoming

year. GOMA received about five million dollars last year in appropriations for regional work. When we began working with CSO we were going to ask for about \$100 million. Now it seems that a more reasonable number will be to ask Capitol Hill for \$30 million in addition to existing appropriations for the Gulf Alliance. The primary contacts in North Carolina are Chris Russo with DENR, Jim Gregson, or DMF's Michele Duval as we are all on the executive planning team.

PUBLIC COMMENT

Frank Rush, Town Manager of Emerald Isle, stated in Emerald Isle we are currently working on the development of the largest public boat launching facility on the coast. We are very fortunate that we have recently completed the land acquisitions for this project. We had a lot of great funding partners, including the Division of Coastal Management. This is a huge project for our area and for our Town. I just want to publically thank Jim Gregson for all of his help with the project. It was instrumental in helping us realize this vision and he really thought outside the box to help us with some grant funding and appreciate his efforts. I can tell you for certain that this would not have happened without Jim's help.

PRESENTATIONS

Draft Wind Energy Facility Amendments to 15A NCAC 7M .0400 Coastal Energy Policies; 15A NCAC 7H .0208 Use Standards and 15A NCAC 7H .0106 General Definitions (CRC 10-02)
Mike Lopazanski

Mike Lopazanski stated Staff presented draft rule language to the Commission at the October 2009 meeting for the permitting of wind energy facilities in North Carolina coastal waters. The proposed amendments included a definition of wind energy facilities, addressed the water dependency of such structures, as well as siting criteria, application requirements and a broadening of the coastal energy policies to include all forms of alternative energy. The amendments to the existing CRC rules were based on recommendations of the EMC, the UNC wind study, as well as the proposed Senate Bill 1068. After the October meeting the Commission had approved these draft rules. The Division solicited comments from permit review agencies as well as others that are knowledgeable with the issues related to wind energy. By early December we had received comments from the Wildlife Resources Commission, Marine Fisheries, NOAA Coastal Fisheries Habitat Research Center, Carteret County Shore Protection Office, as well as the Department of Defense. Most of the comments we received were minor and focused on issues that were already addressed in the CAMA permit process. The comments generally addressed the differences between use standards and policy statements, some of the construction and operational conditions included, noticing requirements, compliance with federal laws, as well as the jurisdictional authority. Other comments addressed decommissioning of the facilities as well as issues regarding migratory bird groups. The packets mailed to the Commission included the proposed amendments to 7H.0208 which lists the energy facilities as water dependent structures as well as the siting and application requirements. 7H .0106 is an amendment to the definitions for wind energy facilities. 7M contains the coastal energy policies and these amendments were broadened to include other forms of alternative energy. There are no changes from what was proposed at the October meeting to the water dependent structure aspects of the rule. There are some minor changes that have been made to the 7M coastal energy policies. We have made some more substantial changes to 7H .0208 use standards. In 7H .0208 we have changed the threshold limits established for evaluation of shadow flicker and noise impact. You will recall that there were distances that were originally included and if you exceeded the distances an evaluation of the impacts would not be necessary. These distances came out of the Senate Bill and we were told that they were an average of other states' setbacks from residences when it comes to wind turbines. Staff was not particularly

happy with that. We started looking for something a little more concrete on which to base the distances. There was a United Kingdom study done that had formulas for both shadow flicker and noise impacts that was based on either the total height of the structure or the diameter of the rotors. It seemed like this was more science based, but having done our research on this study we weren't really comfortable with these numbers either because it brought it in even closer than what was in the Senate Bill. It seemed that what was in the Senate Bill danced around the distances at which people complained about noise. Since these projects are new to North Carolina, we felt it best to have the applicant address noise and shadow flicker impacts regardless of where these facilities are located offshore. When it comes to wind energy facilities the aesthetic impacts are some of the most noticeable. We did not want the State to be perceived as assuming anything before we have experience with these structures. The cost associated with visual and shadow flicker impact assessments is minor compared to the total cost of the project. Staff has proposed that the distance thresholds be removed from the use standards in 7H .0208 and ask that an evaluation of shadow flicker and noise impact be part of the permit application.

The coastal energy policies in 7M.0400 have some minor word changes. We have included an impact assessment. We added a requirement that a bond be posted with reference to the decommissioning and removal of the facility. The CRC does not have the authority for this. It is best to remove the bond provision. Instead we have changed this to include a discussion of the financial instruments being used for decommissioning and removal as part of the plan for decommissioning that is required in 7M .0400. In terms of areas to be avoided, based on comments received, we added migratory bird routes. There are relatively few changes to the coastal energy policies. Staff is recommending that we take these rules to public hearing.

Jerry Old made a motion to send section 7M .0400 Coastal Energy Policy changes to public hearing. Chuck Bisette seconded the motion. The motion passed unanimously (Mitchell, Cahoon, Old, Webster, Bisette, Peele, Weld, Shepard, Carter, Elam, Leutze).

Local Implementation and Enforcement Programs Ed Brooks

Ed Brooks stated this information is about the minor permit program and how it is statutorily mandated. A local government submits a letter of intent to the Director for the Division of Coastal Management. This letter is presented to the Coastal Resources Commission through the Director's remarks at a scheduled CRC meeting. The local government then goes through the process of preparing an implementation and enforcement plan. This plan goes through public hearing and public notice and then it is adopted locally. The locally adopted plan is then brought back before the CRC at their next meeting for approval. The CRC can either approve the plan and have it sent back to the local government to be adopted into ordinance or the CRC will recommend changes and send it back to the local government to go back through the public hearing and public notice process. The local government can then begin operating a minor permit program. The CRC, through their staff reviews the administration of all local programs and this is done on a district field rep level on a day-to-day and week-to-week basis. If the program fails to administer correctly the rules of the CRC then they are notified, deficiencies are specified, and the local government has 90 days to bring their program into compliance or the Division will take over the operation of the program. CAMA mandates these programs. CAMA states the establishment of a cooperative program of coastal area management between local and State governments. The minor permit program is not the only program that the Division operates. We also have the land use plan program and also the beach and estuarine access grants program. There are a number of state and local initiatives within our program. The law goes on

to mandate the process. The law then directs the Secretary to develop a set of criteria. The CRC has 15A NCAC 07I regulations which govern the implementation and enforcement program. This sets up the minimum criteria for the program, the criteria for local permit officers, and the administrative review of the program. The next section of the law discusses the permit requirements. There is a 25-day statutorily mandated permit clock for minor permits. When a local official makes a decision to grant or deny a minor development permit and the Secretary is dissatisfied with the decision, the Secretary may file a petition for a contested case within 20 days after the decision is made.

We currently have 40 participating local governments with 118 designated local permit officers (LPO). Locally adopted minor permit programs allow local governments to process CAMA Minor Permits in-house giving them an active role in the management of the coastal resources within their jurisdictions as well as providing an additional public service to their citizens. LPOs have issued over 1,000 Minor Permits and almost 700 exemption authorizations annually since 1987. The Division has always provided training for LPOs at the District/Field Representative level and in annual LPO workshops. New LPOs coordinate all in-coming minor permit applications with their applicable district field representative. The field rep walks the LPO through the processing of each application. The district field rep continues this process until the new LPO is competent and will continue to provide consultation and assistance as needed. The process varies if the local government has multiple LPOs who can help train newcomers. With the addition of the Minor Permit Program Coordinator, the Division has implemented an initial training course for new LPOs. This is done within the first few weeks of a LPOs designation. It is taught by the Program Coordinator and attended by the field rep for that jurisdiction. The course consists of an AEC overview to overview where permits are required. There is an introduction and review of the LPO manual and in-depth instruction into the Minor Permit process. Annually there is a LPO workshop. The workshop is to provide programmatic updates and additional training to LPOs. The LPO manual is updated each year with any rule changes that have taken effect since the previous year's workshop. Other recurring segments within the workshop include CRC initiatives, policy and rule interpretation, training in recognizing and delineating coastal wetlands, staking normal high and normal water level, staking first line of stable vegetation, and identifying frontal and primary dunes. Since 2004, DCM has provided education training in the following areas in addition to the workshop's standard segments: sediment and erosion control; cultural resource impacts; appeals and variances; using on-line erosion control maps; permeable pavement systems; coastal wetland ID and delineation; recognizing federal "404" wetlands; new coastal stormwater regulations; and new enforcement regulations. A "Minor Details" newsletter is another tool to distribute information to all LPOs in between meetings such as effective dates of rule changes, special meetings or training session details.

Stable and Natural Vegetation (CRC 10-04) Ted Tyndall

Ted Tyndall stated the rule for first line of stable and natural vegetation was changed in April 2008 to codify what Staff had been doing for years. The rule was originally written vaguely for first line calls and we put in some language with specific guidance. This rule has served us well, we feel comfortable with it and feel that it is being applied appropriately. In 7H .0305(a)(5) it describes the natural and manmade features that are found within the ocean hazard area of environmental concern. This includes the ocean beaches, nearshore area, primary dune, frontal dune, vegetation line, and static vegetation line. Specifically in 7H .0305 the key thing is that it is the first line of stable and natural vegetation and a line that represents the boundary between

the normal dry-sand beach, which is subject to constant flux due to waves, tides, storms and wind, and the more stable upland areas. It is the line between the normal dry-sand beach and the area that is subject to the tides, waves, storms and wind. I have always said that the vegetation line is self-limiting. It will be established by Mother Nature. Mother Nature will limit how far out the vegetation will grow on the beach. We want to see the area over time and how it has weathered multiple storm seasons. What typically happens is during the summer time you get the southerly winds that build up the beaches and then as the seasons change you get the winter nor'easters coming in over and over chewing up the berm and taking away the sand and moving back toward the dry sand beach and eroding the beach. The rule is clear and gives us comfort that it is a straightforward call that we need to be making. LPOs and the field reps make thousands of calls per year and we don't need to be out there with transects and taking plots and counting plants as it would boggle down the system. The rule says that the vegetation line is generally located at or immediately oceanward of the frontal dune or erosion escarpment. In accordance with the rule it says that the Division of Coastal Management or a local permitting officer determines the location of the stable and natural vegetation line. It says that this line is based on visual observations of plant composition and density. It goes on to spell out what stable and natural mean. The rule addresses planting and says that if planted it may be considered stable when a majority of the plant stems are from continuous rhizomes rather than planted individual rooted sets. When we go out on site we look to see how stable it is and if it has started to propagate. We pull and tug the plants; we look at the root system and look to see if there are still planted rows. The rule says it may be considered natural when a majority of the plants are mature and additional species native to the region have been recruited providing stem and rhizome densities that are similar to adjacent areas that are naturally occurring.

Spencer Rogers commented that the most important thing to recognize with the vegetation line and why it has been successful for 30 years as a reference feature is not on where the vegetation grows, but what it represents is the seasonal fluctuations in the beach. It is where the sand is actively moving every single year. Conveniently for management purposes there is a less frequent storm (5-10 years) then it erodes into the dune, it takes out more vegetation and it conservatively moves the management line landward which is the way management wants. It lets nature recover on its own. Most ways it has been extremely effective the way it has been interpreted by the staff. In the description today the problem is not whether it is planted or not. It doesn't matter whether it is fertilized or watered a little. What appears to be a problem is when it is fertilized or watered a lot. One suggestion you might look at if it is not already in the latitude of the staff is right now the staff has the latitude to look along the shoreline and to make judgments to interpolate. That is done where vegetation doesn't exist. One thing you might want to look at is giving the latitude when you know it has been extremely stimulated with water and fertilizer to look along the shoreline to those areas where that hasn't been done and to look and interpolate beyond the area of the artificial boost in the growth.

Contested Cases – Procedures & CRC Role/Responsibilities

Jennie Hauser

Jennie Hauser stated a handout about conflict of interest and recusal will be distributed to you after the meeting. Contested cases come to this body primarily in two ways. The first would be the situation where an applicant for a permit has been denied the permit and files a contested case with the Office of Administrative Hearings. The second primary way that you receive contested cases is when a third party, an adjoining land owner or some other citizen in the community, contests the issuance of a permit. That comes first to the Chairman for his determination under the statutory criteria as to whether or not a contested case is warranted. If

the Chairman grants the request for a third party appeal then that party also can file a contested case in the Office of Administrative Hearings. The Office of Administrative Hearings is an executive agency that is not a court. However, the executive agency sits and finds facts regarding decisions that have been made by other executive agencies. In the situation for the CRC's case, the Division of Coastal Management or a local LPO makes a decision about a permit, someone files a contested case at OAH, an Administrative Law Judge holds a hearing which is like a trial, the ALJ listens to the witnesses, decides on their credibility, finds facts in the case, makes conclusions of law and wraps all of that into a written decision and the documents that are submitted into evidence are forwarded to Counsel for the CRC as the official record for the contested case. Counsel for the CRC notifies the parties and gives them the opportunity to review the record to make sure that it is complete. Then each CRC member is notified that the case is coming before you and you must ensure that you have no ex parte contacts. Ex parte contact means the Member should not be approached by any of the parties in the case, nor should you seek out any parties in the case to discuss the matter. What we are trying to do is to create an environment and insulate the decision making members of the Commission so that each of you make your decision based solely on the official record. Once the record is received an index is created. One of your primary responsibilities as a member of the Commission is to familiarize yourself with the record. Occasionally, we will have oversized exhibits that cannot be duplicated and we will bring those to the hearing and make them available for your review. In the process of being notified about the name of the case and the nature of the case and in receiving the official record for review for decision making, you need to ask yourself whether or not you might have a conflict of interest in participating in the decision making in the case. The State Government Ethics Act, which all of you have had training on, sets out the responsibilities for determining whether a conflict of interest exists. You want to look to see whether or not you have a financial relationship to one of the participants in the case. If you do, you have an actual conflict of interest and you definitely cannot participate in the decision making. You might also have some other relationship with a participant in the case. That could come in the form of a member of your extended family, being involved in a group, and your relationship with that group if you are on the Board of Directors or you are an elected officer in the group and the group is a participant in the contested case then you are going to have an appearance of a conflict of interest and you would not want to participate in the decision making. This brings up the issue of recusals. Each of you has the right to vote on matters that come before the body. In fact, you are normally expected to participate in those votes. The exception is if the State Government Ethics Act would prohibit you from doing that in which case you would recuse yourself from participation. You can also abstain from taking a vote in a matter. It is your vote and no one can force you to exercise it. If we are in a situation where we might run afoul of the quorum provisions where we would need a certain number of people in order for the body to take an official action then the Chairman would be concerned if a large number of people decided they did not want to exercise their right to vote. A recusal is a formal declaration on the record indicating that you do not wish to participate and normally for the purposes of the State Ethics Act you state some sort of reason for not participating. Although you can just indicate that you want to recuse yourself and have that recorded in the minutes and that is sufficient. When you recuse yourself you do not participate in the deliberations and you certainly don't participate in the voting. You are not required to leave the table, you are not required to leave the room, you may do those things if you choose but you are not required to do so. Once you have indicated that there is a reason that you cannot participate in the matter and participation involves having reviewed the record, having reviewed any exceptions or documents in support of the decision, having been present for the oral presentations and having been present for any question and answer period that might have occurred between the Commission members and the participants. If you have done all of those things then you can competently participate in the decision making which would include deliberation among the members and the actual vote.

If you have recused yourself because you have a conflict of interest or there is an appearance of conflict or you were not here for part of the oral arguments or presentations or if you just want to recuse yourself, once you have made that announcement then you do not participate in the deliberations and you do not participate in the vote. There is no ability to undo the recusal. That would negate the whole purpose of the recusal which is to notify the other members of the body of your personal situation that disqualifies you from voting. You remove yourself and change your status with regard to the issue that is before the body. That change in status remains until that question is decided. There is no ability to undo your recusal once you have made the determination. You also have to avoid any impermissible legal bias. There is a situation of prior knowledge of matters that might come into the case. For example, many of you have experience in real estate or have experience in fields of sciences or local governments. You bring all of your knowledge to the table as a Commission member when you come to these contested cases. But if you cannot set aside what you already know and especially if you already know something about the particular case that is before you then you are going to be subject to challenge based on an impermissible legal bias. What we try to do as Counsel to the Commissions is help the Commission members stay far away from any sort of allegations that they have made their decisions with impermissible legal bias. There is one set of situations in particular where the Supreme Court found that Board members on the Board of Education who fired a teacher for impermissible conduct with a minor made the correct decision in firing the teacher. However, because they knew about the situation with the teacher prior to his disciplinary hearing, but were not forthcoming about their prior knowledge, in fact on the record they lied and said that they had no prior knowledge before the case was brought before them that the board was subject to compensatory damages to be paid to the teacher. Site visits came up in the last contested case. There are two issues with site visits. The first is the idea that the person conducting the independent site visit would be seeing new evidence that is outside of the record. You have to be limited to what the ALJ has seen and told you about. Site visits also suggest that there might be some sort of an impermissible legal bias. Especially if the site visits have been conducted and it is not clear whether or not the member could set aside what they have seen. For these reasons I would ask that you conduct no site visits until after the decision is made. Your duty regarding ex parte contacts and keeping yourself limited to the record is a continuing duty. It does not end when you make your vote. The case may or may not be over. In the last hearing situation several members received packets between the time the vote was taken at the meeting and the time the written decision was issued and signed by the Chairman. Those packets came from one of the parties, the party also copied all of the opposing Counsel on the packets but we want you to avoid having new information placed before you in case the case comes back to you from the Superior Court. In a variance situation you have had returned to you from the Superior Court a variance decision. This can also happen in a contested case proceeding and therefore we want you to avoid hearing new evidence and talking about the case. As the case progresses through the cycle, if it goes to Superior Court and the decision is upheld in Superior Court then it is less likely that the Court of Appeals is going to send it back to you.

We do have a contested case that will be set for the March CRC meeting and you will be receiving the official record in a few weeks.

Joan Weld made a motion to extend the time to make the final agency decision in the Donahue v. DCM for good cause shown for the entire 120 day period allowed by G.S. 150B-44. Good cause in this case being the official record was received in December 2009 and the agendas for the January and February 2010 meetings were already full. Therefore the contested case would not be presented to the Commission until the March 2010 meeting. Melvin Shepard seconded the motion. The motion passed unanimously (Mitchell, Cahoon, Old, Webster, Bisette, Peele, Weld, Shepard, Carter, Elam, Leutze).

PUBLIC HEARING

15A NCAC 07H .2300 General Permit for Replacement of Existing Bridges and Culverts

Mike Lopazanski stated there are several rules that make up the General Permit. The CRC is proceeding with rulemaking in order to make changes to its General Permit for the replacement of existing bridges. These amendments are intended to streamline the process under which the Department of Transportation replaces two-lane bridges on secondary roads. It is designed to increase the usefulness of the General Permit to the Department of Transportation. 15A NCAC 07H.2302 is the approval procedure. 15A NCAC 07H .2303 is the permit fee. 15A NCAC 07H .2304 are general conditions for the general permit. 15A NCAC 07H .2305 are the specific conditions for the general permit.

No comments were received.

CRC Study of the Feasibility and Advisability of the Use of Terminal Groins

Paul Tschirky stated this is the third public hearing on the terminal groin study. This study is based on House Bill 709. The Bill was made up of two sections and the second section specifically addressed that the Coastal Resources Commission study the feasibility and advisability of the use of a terminal groin as an erosion control device. The legislation specifically referred to six parts. The first part was to look at the effectiveness of terminal groins and the physical parameters of how a terminal groin works. The second part was to look at the environmental parts of a terminal groin and what impacts they would have. The third was to look at engineering and construction techniques. The next three parts were the economic side of the study. Look at the economic impacts to the state, local government, and private sector of erosion due to shifting inlets. Look at associated construction and maintenance costs of these structures. If these structures are applicable or feasible should they be limited to certain situation such as inlets that are already dredged for navigation. Also identified in House Bill 709 was the need for three public hearings. This is the third public hearing and there are two additional hearings scheduled. The report from the CRC to the Environmental Review Commission and General Assembly is due April 1, 2010. The draft report will be provided to the CRC by February 1, 2010. The contractor will gather and pull information together for the study. The CRC and CRAC will develop policy recommendations from the information. The Science Panel has been involved in the scoping to provide peer review of the information. Five sites were selected along the southeast coastline of the United States to look at in more detail. There were two in North Carolina, Oregon Inlet and Fort Macon, and three along the coast of Florida, Amelia Island, Captiva Island and John's Pass. All presentations, public comments, and future meeting dates can be found on the Division of Coastal Management website (www.nccoastalmanagement.net) under the "What's New" section. Comments can be made by e-mail to Jim.Gregson@ncdenr.gov.

Martin Cooke, member of the Brunswick County Board of Commissioners, stated I am a small businessman at Ocean Isle Beach, North Carolina. I want to say that initially when I started finding out about terminal groins I didn't know much about what they really were either. I thought they might have been jetties or something else and thanks to Moffatt & Nichol and all the information that you folks have presented I have become much more educated as far as what it might be and what it might do for our area. That being said, I am grateful for the level of participation that you have done with the public. You have carried yourselves all over this state to try to get public input. I am grateful for that. No one can ever say that you haven't done due diligence. I, as an individual citizen of the state, want to thank you for that. I think one of the things that we look at as individuals is that when I talk to the public they don't always know what it is when they seem to understand what it might be. They are looking for you as being the

arbiter to determine whether it would be viable for our area or not. That is the main central thing is that you will be the ones that will make that decision for us. We know it is in the legislature right now. Personally, I feel like it would be a really good option. I have seen what has taken place with respect to Fort Macon. I have walked that jetty, rather terminal groin, and have looked at it myself. In fact, I had to hunt for it and make a phone call to find out where it was. With respect to the one at Oregon Inlet, it seems to be very benign in its impact. Regardless of that situation I would hope that with respect to this that it will be settled and there will be something that will be able to bring stability not only to our cities but to the overall infrastructure of our state to preserve the tax base as well as the ability to have a long-term solution to the concerns that confront us. Again, thank you.

Frank Iler, NC General Assembly House District 17, stated he took a picture of the terminal groin at Fort Macon after the hearing before last. It is hard to tell where the sand stops and where the rocks begin and I would like to share it with anyone that would like to see it. I want to talk about one or two things very briefly. Open mindedness is one of them. The existing Bill, which is in Committee and passed by the Senate, Senate Bill 832 says that the Coastal Resources Commission may authorize the construction of a terminal groin by variance if certain criteria are met. It says various things in that Bill if you get the chance to read it. It is online. It indicates that terminal structures are unobtrusive, permeable and basically place a template back to where the land and beach was. It allows it to fill in with sand without detrimental consequences to the shoreline. It has actually filled in with sand in many cases. Another question that has come up is whether they will work or not work. I am not sure of what the definition of work is. It depends on what they are intended to do. I picked up a publication today and read it at lunch. The Coastal Review which is published by a group called the North Carolina Coastal Federation. The two articles about this seem to determine that they do not work and so forth. They determine that they would exist everywhere if they did work. There are a lot of them in existence including Florida. One of the Commission members at one time made a statement and it is in the publication that what we may find out is terminal groins will work well in some places and not in others hamstringing the Commission's ability to offer a definitive recommendation. To me that is a recommendation that they will work in some places and not in others. The word management is in your division title and I am asking you to keep an open mind so that you may manage the coast. You will have the choice when these should be used. I made a phone call to my brother who has done environmental studies in Florida for over 30 years. I asked him what has been his experience with these was. He said that all he knows is when they are permitted they do extensive environmental studies to see if they are hurting the reefs or if they are impacting the environment in any way. There are studies in each case. I am asking you to take over the management and keep an open mind about this Bill when it authorizes you to manage the coast.

Tracy Skrabal, North Carolina Coastal Federation, stated I want to make a couple of comments about the methodology discussion that we had today. As with the first speaker I think you all have done an amazing job on due diligence with regard to discussion between all of the CRC members, the consultants and the science panel on the scientific sections of the study. We had addressed some concerns about the economic analysis at the last Science Panel meeting. I think some of the Science Panel members have the same amount of discomfort as I do as a scientist discussing the economic strategies and methodologies. What I was wondering was if we could have a discussion, those of us that are involved in this, in possibly invoking a peer review of the economic side of this. We have gone to great lengths to do a peer review process on the scientific, but we have not done the same on the economic side. Basically we have one consultant, with all due respect to Dr. Dumas who I respect, but it seems as though there would be some value in having other experts in the field of economics evaluate the methodology at this

point in the game. I don't want to speak for other scientists, but I do not even know what I don't know to be able to ask the questions. Having said that, I do question when I hear his methodology things like it appears that there is little information being prepared or evaluated on the risk factors on these project sites outside of the structures themselves. From a lay person standpoint, I would question how we are going to evaluate other risk factors that would affect success or failure. Secondly, it looks as though the methodology takes us from now and looks at risks looking forward, but does his scope involve evaluation of success or failure from an economic standpoint back in time to the beginning of these projects. I just don't even know the answers short of picking up the phone and asking Dr. Dumas. I am sure I would not be asking the correct questions. I just throw it out for your consideration that we ought to give as much opportunity for broad evaluation of the economic evaluation as we are doing for the scientific because certainly that aspect of the study is very critical.

Drew Ball, NC Sierra Club, stated I would like to thank the Commission for the continued openness and commitment to public input. I want to stress the importance of continuing to maintain this transparency. I listened to the Moffatt & Nichol briefing this morning and heard the continued emphasis on economics. I didn't hear any mention of taking sea level rise into account. That is a major concern. We are keenly aware that the study has an overarching focus on the economics and we understand that it is not a very big study and the Commission is doing the best you can with the resources that you have. In order to create a study that is truly going to contribute to the dialogue on this issue in a meaningful way we need to be sure we evaluate the economics in a way that understands we are not in a static environment. The North Carolina sea level rise science forum is going to be held within these very walls in the coming days. It is an issue that does need to be taken into account and incorporated within this study in the conclusions that the CRC comes out with. The emphasis of the CRC's report really needs to focus on comprehensive far-sided strategies and not a head in the sand outlook. That could include buy outs if it does come to that. One last point I will make on the economics of this issue is North Carolina's coastal policies are consistently held up as a model to protect public beaches and public access to those beaches. It should be noted that any kind of short term actions to protect private property could put that valuable resource in jeopardy. I appreciate the time that I have to speak with you today and thank you for your work.

Scott Gardner stated my wife and I reside in Durham, North Carolina but we own property on Bald Head Island. We have been following this issue closely as it has been deliberated. I would like to make the point to be mindful of the impact of man-made decisions on the use of terminal groins. The Cape Fear River channel has been deepened and widened and shifted toward Bald Head at the request of the Port Authority and executed by the Corps of Engineers after intensive environmental studies to understand the impact. The negative impact has been as with any youngster that digs in the sand, the whole is going to fill up. That is what is happening down there. It is having a severe negative impact on Bald Head, particularly the west beach area. Please consider the potential of considering terminal groins. If not in a number of places, at least where man-made impacts, where man is having a negative impact on a channel and the beaches close by. Thank you very much.

ACTION ITEMS

LAND USE PLANS

John Thayer stated there are two land use plans for certification, the Onslow County land use plan and the Beaufort County land use plan. Staff has determined that both documents have met

the substantive requirements of the 7B guidelines and that there are no state and federal rule conflicts. Both projects had duly noted public hearings and the public received the opportunity to provide written comments to the CRC on the documents. No comments have been received. Staff is recommending certification for both documents. The Beaufort County certification recommendation includes policy 4.8 which is not enforceable for federal and state purposes. This policy is associated with the OLF and military training facilities and is an opposition statement. The policy statement does recognize that it may not be enforceable for state and federal purposes.

Melvin Shepard made a motion to certify the Onslow County Land Use Plan. Veronica Carter seconded the motion. The motion passed unanimously (Mitchell, Cahoon, Old, Webster, Bissette, Peele, Weld, Shepard, Carter, Elam) (Leutze absent for vote).

Bill Peele made a motion to certify the Beaufort County Land Use Plan. Ed Mitchell seconded the motion. The motion passed unanimously (Mitchell, Cahoon, Old, Webster, Bissette, Peele, Weld, Shepard, Carter, Elam) (Leutze absent for vote).

Carteret County Land Use Plan Update

Maureen Will, DCM District Planner, stated after the conditional certification of the Carteret County land use plan in July, Staff provided written guidance to the County at the end of July. The County provided a draft to Staff at the end of November with the updates. Staff reviewed the draft and felt it necessary to meet with the County for a few additional clarifications. DCM Staff and Carteret County Staff met yesterday to go over the draft. Hopefully within the next week we will be able to get the certification finalized.

Joan Weld made a suggestion that a generic land use plan press release be provided to the Coastal Resources Advisory Council representative to take back to the local press in their county once their land use plan has been adopted.

RULE ADOPTIONS

Mike Lopazanski stated 7H .0208 contains the guidelines for water dependent development in primary nursery areas and submerged aquatic vegetation. Broader amendments have been made to the docks and piers rules as well as the shoreline stabilization rules. That afforded the CRC the opportunity to clarify other specifics of .0208 and other outdated provisions as well as correct vague or ambiguous language in accordance with APA guidelines.

15A NCAC 07H .0208 General and Specific Use Standards

Charles Elam made a motion to adopt 7H .0208. Jerry Old seconded the motion. The motion passed unanimously (Mitchell, Cahoon, Old, Webster, Bissette, Peele, Weld, Shepard, Carter, Elam,) (Leutze absent for vote).

Mike Lopazanski stated 7H .0309 contains structure limitations, pier houses, and electrical transmission lines from energy producing facilities. This is a rule that we tinkered with a number of times for the past year and a half. It has gone to public hearing repeatedly.

15A NCAC 07H .0309 Use Standards for Ocean Hazard Areas: Exceptions

Bill Peele made a motion to adopt 7H .0309. Veronica Carter seconded the motion. The motion passed unanimously (Mitchell, Cahoon, Old, Webster, Bissette, Peele, Weld, Shepard, Carter, Elam) (Leutze absent for vote).

Mike Lopazanski stated 7H .1704 and 7H .1705 are the general and specific conditions for temporary erosion control structures. This is the General Permit for sandbags. Changes were made to 7H .0308 and these changes were proposed to be consistent with 7H .0308.

15A NCAC 07H .1704 General Conditions – Temporary Erosion Control Structures

Jerry Old made a motion to adopt 7H .1704. David Webster seconded the motion. The motion passed unanimously (Mitchell, Cahoon, Old, Webster, Bissette, Peele, Weld, Shepard, Carter, Elam) (Leutze absent for vote).

15A NCAC 07H .1705 Specific Conditions – Temporary Erosion Control Structures

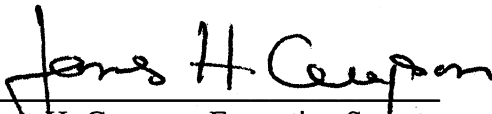
Chuck Bissette made a motion to adopt 7H .1705. Bill Peele seconded the motion. The motion passed unanimously (Mitchell, Cahoon, Old, Webster, Bissette, Peele, Weld, Shepard, Carter, Elam) (Leutze absent for vote).

OLD/NEW BUSINESS

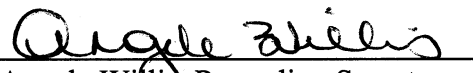
Bob Emory stated there is a one-day meeting scheduled for February 17, 2010 in Wilmington to discuss the terminal groin study draft report. Prior to the CRC meeting, the Steering Committee will have a meeting in New Bern on February 15 to look at the draft report and will bring some recommendations to the CRC on February 17. There will be a separate CRAC meeting on February 16. The Sea Level Rise Science Forum begins on January 14th at 8:00 a.m. and is scheduled to adjourn on January 15th at 11:00 a.m. at the N. Raleigh Hilton.

With no further business, the CRC adjourned.

Respectfully submitted,



James H. Gregson, Executive Secretary



Angela Willis, Recording Secretary