

MEMORANDUM

TO: Coastal Resources Commission
Environmental Management Commission
Marine Fisheries Commission
Coastal Habitat Protection Plan Steering Committee

FROM: Jimmy Johnson
Albemarle-Pamlico National Estuary Partnership
Anne Deaton
Division of Marine Fisheries

DATE: January 26, 2024

SUBJECT: Coastal Habitat Protection Plan Steering Committee Meeting

The Coastal Habitat Protection Plan (CHPP) Steering Committee met virtually at 10:00 a.m. on Friday, January 12, 2024. The following attended virtually:

Commissioners: Bob Emory, Larry Baldwin, Kevin Tweedy, Yvonne Bailey, Donald Huggins, Doug Rader
DMF Staff: Anne Deaton, Casey Knight, Jacob Boyd, Jimmy Harrison, Charlie Deaton, Kim Harding, Chris Stewart, Jason Parker, Kelly Brannigan
APNEP Staff: Jimmy Johnson, Tim Ellis
DCM Staff: Braxton Davis, Daniel Govoni, Rebecca Ellin, MacKenzie Todd
DEMLR Staff: Samir Dumpor
DMS Staff: Anjie Ackerman
DWR Staff: David May, Holley Snider, Michelle Raquet, Karen Higgins, Sue Homewood, Elizabeth Liebig, Paul Wojowski, Michael Pjetraj, Tammy Hill, Forest Shepherd
DWI Staff: Victor Damato
DEQ Admin: Aaron Ramus
NC Sea Grant: Frank Lopez
USACE: Andy Williams; Tyler Crumbley
Public: Anne Coan (NC Farm Bureau), Julie Youngman (SELC), Hans Paerl (UNC IMS), Lisa Rider (Coastal Carolina Riverwatch), Riley Lewis (White Oak Waterkeeper), Lj Palmer-Moloney (VTT), Holly White (NCORR)

Doug Rader called the meeting to order at 10:00am. The agenda for the January 12, 2024 meeting and the minutes from the May 31, 2023 meeting were approved by consensus. It was noted that Donald Huggins name was recorded as Doug Huggins. That correction was made.

Implementation Progress

Anne Deaton, Charlie Deaton and Jimmy Johnosn reviewed the progress made to date towards implementing the recommended actions found in the 2021 Amendment to the 2016 CHPP.

Anne began with Recommended Action 4.1, and she reported that her section had received a CRFL Grant for approximately \$180,000 with the hope that this money will be recurring through 2027. This money would be primarily used to hire temporary staff to do sampling of SAV and Strategic Habitat Areas. Anne mentioned that this probably was not enough money to do all that is needed for SAV sampling. However, Dr. Jessie Jarvis recently completed work through another CRFL grant and there is hope that her work can be used to help offset what will be needed with this new money.

Chris Stewart gave a brief update on Recommended Action 4.2. On January 17th, DMF is going to present an SAV Issue Paper using updated imagery provided by APNEP. DMF has created an updated mosaic using the nine different CHPP SAV regions. From the images, DMF is proposing additional area closures to protect all the unprotected SAV throughout the state. This will go to the standing committees and then to the MFC in February. The closures have been identified with creating buffers in mind to protect the SAV and the SAV habitat.

Regarding Recommended Action 4.5, Tim Ellis with APPNEP reported that sampling had been done in the spring and fall of 2023 from Ocracoke inlet up to Avon, and APNEP had collaborated with DMF and UNCW to get that field sampling done. APNEP also worked with NCDOT to do the aerial surveys during that time. The imagery was acquired in June and October of 2023. For 2024, the plan is to move to the last sub region, which is the area of Avon, north to the highway 64 bridge in Manteo.

Paul Wojoski with DWR reported in regard to recommendation 4.9 that over the past year, the SAC, the Scientific Advisory Council of the NCDP, has worked through the investigation or investigating the relationship between nutrients and water clarity, and to this end, they've developed a draft water clarity standard for the protection of SAV. Not only did they develop the draft language for the standard, but they have produced a scientific support document to detail the scientific basis, the preferred standard to provide their references that they use to draw these conclusions.

Wojoski continued that DWR needs to be able to bring a clarity standard forward, so looking forward into 2024, the SAC (Scientific Advisory Council) will continue to work on the clarity standard and you nor will continue to develop the rulemaking package for the clarity standard and we will bring that forward to the EMC when it's ready. Apart from the clarity standard, the

SAC will next move forward to looking at the relationship between nutrients and harmful algal blooms and how to protect and recreational uses of our coastal waters. With the Chowan River and Albemarle Sound as the focus, they have been looking at different data and tools available, including remote sensing data and looking at chlorophyll *a* relationship to harmful algal blooms. The SAC will convene next on January 26th, and will continue to move forward through 2024 to meet these goals.

Doug Rader stated that he was very interested in the work of the Scientific Advisory Committee going forward and especially regarding the oligohaline waters to the north and how perspective salinity changes associated with barrier island integrity and other things get factored into thinking about nutrients and dynamics and those kinds of future conditions. Rader questioned how a changing salinity regime might be represented in thinking about standards like this? Wojoski stated he would be glad to follow up with Dr. Rader and address his concerns. Dr. Hans Paerl stated that Nathan Hall is also incorporating Doug's concerns and questions about the changing salinity in the bio-optical models that he is working on.

With regards to protection and restoring wetlands, chapter 5 of the amendment, Charlie Deaton highlighted some of the progress being made with those recommended actions. Recommendation 5.3 was to form an interagency group to discuss wetland mapping across the state. That is something that has been ongoing. As part of Recommendation 5.1, DEQ has been able to obtain state matching funds for NOAA's Coastal Change Analysis Program, C-CAP, the mapping of wetlands across the coastal plain at 1m resolution. This not just a wetland mapping program, it is a full land use land cover mapping program. Funding will be contributed by DMF, APNEP and DCM. DWR is applying for grant funding to be able to do the rest of the state.

There followed a discussion about the definition of wetlands and the concerns regarding jurisdictional wetlands and connectivity.

Jimmy Johnson reported on Recommendation 9.1 and the call for a Public Private Partnership in the CHPP Amendment. This PPP is now called SECCHI which stands for "Stakeholder Engagement for Collaborative Coastal Habitat Initiatives." A virtual workshop was held late last year for the purpose of looking at water quality and low salinity SAV in the Chowan River watershed. Over diverse group of over 30 people attended virtually. Sara Winslow, a retired marine biologist from DMF, gave a history of the Chowan Basin and she highlighted the improvements that were made in water with regards to water quality back in the 70s and 80s, and then she talked about the decline that she has seen since that time period, specifically between the 1990s and the present. Sara talked about the need for best management practices (BMP) to be put into practice. BMPs were a big theme for this workshop.

After Sara spoke, Nathan Hall presented some of his findings from the work that he has been doing with funding from APNEP and he presented to the workshop attendees what nutrients needed to be managed and where those nutrients were primarily occurring. Dr. Hall mentioned that any BMPs which are utilized should be used with the intent of managing both nitrogen and phosphorus, and not just on nitrogen. Dr. Hall also noted that phytoplankton is a significant contributor to light attenuation. He stated that somewhere around a 20% reduction in phytoplankton would make a large difference in the clarity of the water and the ability for SAV to grow. He also stated that about 30 to 40% of the total nutrient loading is coming from small, unmonitored streams. Dr. Hall made the statement that local communities can have more control over nutrient loads that affect water quality and smaller streams. His point being that instead of focusing on the larger picture, if we could get those smaller communities the help that they need, we could possibly have a pretty significant impact on water quality in the Chowan watershed.

There was a lot of discussion between practitioners and other attendees regarding communicating with local governments in the northeastern part of the state as well as the local communities. It was stated that there is a tremendous need for partnership partnerships to help disseminate information in a way that the public and public officials can understand, especially regarding the work that Dr. Hall has been doing.

Another significant issue that came up at the workshop was that another significant issue that Chowan River Basin is in the process of becoming a national Water Quality Initiative watershed through the NRCS. This initiative allocates funds to landowners within impaired watersheds and these funds that can be used to implement best management practices. The North Carolina Coastal Federation has applied for this grant, and they are currently putting together a plan to submit to the NRCS as well as assessing the needs of the watershed. Once the plan is approved, the landowners will be able to apply for funding directly through the NRCS.

Presentation from Recent Algal Bloom Workshop

Holly White, with North Carolina's Office of Recovery and Resiliency (NCORR), next provided an overview of the Algal Bloom Summit which was held in November in Elizabeth City. Ms. White began by explaining what NCORR was and why they were involved in this effort. Through NCORR's RISE (Regions Innovating for Strong Economies and Environment) Program some 55 projects were identified, one being the Harmful Algal Blooms (HAB) in northeastern NC. In November 72 people came together to discuss what could be done and how to go about doing it regarding the HABs.

The session began with reports from impacted communities. This was followed by how the state was responding to the HABs and the research which was being carried out in association with the algal blooms. In the afternoon, the larger group broke up into smaller groups with each group

moving from station to station. The four stations were: Research, State Government, Local and Regional government, and the Community. At each station, these groups were asked specific questions. NCORR is currently compiling the proceedings from the workshop and they should be available to the public soon. It was decided that more meetings like this are needed in the future to be able to disseminate any new information that has come to light. Questions that were asked included how safe is the water to recreate in? When is it safe to go back in the water? Is it safe to eat the fish and crabs from the water? How can the sources of nutrients be mitigated? What is the best way to reach the citizens with any new information?

Review of Sacket Decision's Impacts

Next on the agenda, Sue Homewood was asked to provide an update on the Sackett decision and its effect on NC's wetlands. Sue deferred to Andy Williams with the US Army Corps of Engineers (USACE) to get the discussion started. Mr. Williams had a presentation of what had changed because of the US Supreme Court's Sackett decision. One of the big changes was where "adjacent wetlands" was revised to mean having a continuous surface connection. Also, with regards to tributaries, the definition was revised and deleted the significant nexus standard for ephemeral streams. The new definition regarding continuous surface connection (adjacent) will be difficult to figure out because the definition does not appear to be very clear.

Sue Homewood with DWR added after Mr. Williams' presentation that before the Supreme Court's decision, wetlands were considered waters of the US thus giving way to robust permitting program. The EMC, along with others are looking hard at what wetlands in NC will be impacted by this decision. There is some discussion about going through the rulemaking process and have that begin in the EMC's Water Quality Committee. Currently there are a lot of unknowns. Currently, if the USACE has questions about a designation, they send their questions to the EPA for coordination and a final ruling. The concern is that a number of areas previously considered wetlands could become targets for draining, filling and developing. Dr. Rader stated that he would like to see policy and science merge. Right now, EPA is giving the USACE Districts leeway in their determinations. Everyone is litigation adverse. Tyler Crumbley reminded everyone that the definition of wetlands had not changed and the USACE was still using the 1987 manual and supplements.

Discussion – Upcoming Commission Actions

Dr. Rader then opened a discussion regarding actions that the respective commissions may be considering which could affect the progress of the current recommended actions in the 2021 CHPP Amendment. Dr. Rader led off the discussion by mentioning the upcoming shrimp trawl boundaries and if they might affect the Oyster/Clam FMP.

Commissioner Bailey mentioned that the EMC was on a fast track to modify the definition of wetlands, possibly by November of 2024. She also informed the Steering Committee that the triennial review of all the state's water quality standards, is coming up for review. Kevin Tweedy added that the wetland's issue would be a big issue and trying to figure out how to track the decisions will also be time consuming.

Bob Emory mentioned that the CRC will be working on wetland migration corridors and that DCM was proposing to amend their CZMA section 309 assessment and strategy. Daniel Govoni explained that DCM has accomplished some of the strategies they said they would do in the 5-year plan and now have some money left over which they want to re-allocate to other areas of their program. One area being the use of this layer placement for material that has been dredged up for various locations. They would like to map areas where this might be possible.

Public Comment

Chairman Rader opened the meeting for public comment. A letter had been received from Chris Elkins. Dr. Elkins was concerned that forage fish were not receiving the attention they deserved. He suggested that they be considered a habitat for the sake of protection them as a food source for other fish. He cited specific examples of here other plans had done that.

Anne Deaton thanked Jacob Boyd and Braxton Davis for the work they had done in contributing to the CHPP. Both will be going to work for the NC Coastal Federation at the end of January.

Larry Baldwin expressed his appreciation in having the CHPP represented at their CRC meetings. He felt like it added a lot to the CHPP to keep it in front of the commissions. Larry also added that he would like to hear more about available funding and how the PPP could help secure some of that money – especially mitigation credits.

The Steering Committee will plan on meeting again in the late summer or early fall in person. We will try and get it in your calendars sooner rather than later.

The meeting adjourned at 12:00 noon.

