



University of North Carolina Sea Grant Program NEWSLETTER

JULY, 1974

1235 Burlington Laboratories
NCSU, Raleigh, N. C. 27607 Tel. (919) 737-2454

Coastal Management: Planning today for tomorrow's resource needs

When it comes to the future of their state's coast, North Carolinians are at a crossroads.

Luckily, they have time to choose whether they will follow a road leading to beach areas that are free of clutter and rich in resources, or whether they will travel the route to certain destruction of coastal resources.

It's true that two-thirds of the state's shellfishing waters have been closed because of pollution. And much valuable marsh has been gobbled up by man's hunger for land.

But North Carolina's beach areas are still good places to live and vacation. Compared with other states, waters are relatively unpolluted. And clean, quiet beaches and good fishing aren't out of the ordinary.

This Spring, in steps that could help prevent the destruction of our limited resources, the N. C. General Assembly passed a law designed to encourage North Carolinians to plan for the use and conservation of coastal resources. Although the law, the Coastal Area Management Act, represents a new direction in coastal Carolina, no one can be sure just how effective it will be until it is in action.

The coastal bill remains a source of confusion to many citizens. Some believe the new law spells an end to growth for North Carolina's beach areas. Some see it as an attempt by government "to tell us what to do with our land." And others see the act as a direct threat to their rights as private property owners.

Just what does the coastal management act seek to do?

According to Dr. Thomas J. Schoenbaum, University of North Carolina associate professor of law, the law does not intend to stop growth. A clear



Hang gliding at Jockey's Ridge. Land management aims at protecting unique coastal features such as this large sand dune from unwise development.

policy of the act is to provide for orderly development of transportation, housing, industrial, commercial and recreational facilities, he notes in an article that will appear in the Fall, 1974 *North Carolina Law Review*.

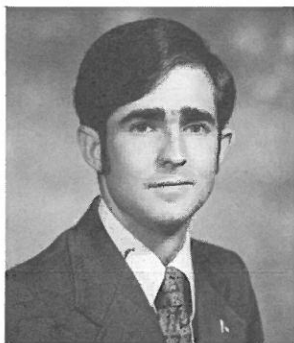
While the bill calls for continuing development, it also sets a clear policy for preserving and managing the natural environment, Schoenbaum says, pointing out that a comprehensive management plan is the key to resolving the conflict between development and conservation.

Schoenbaum, a Sea Grant researcher and a primary author of the coastal bill, explains that the act divides coastal lands and waters into two broad

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seascope

REP. WILLIS P. WHICHARD



Rep. Whichard (D-Durham) served in the N. C. House of Representatives during 1973-74 as chairman of the House Committee on Water and Air Resources. He was one of two key co-sponsors of the Coastal Area Management Act in the General Assembly.

Coastal zone management in North Carolina

The 1969 General Assembly, recognizing the critical problems of development in North Carolina's coastal region, established and funded a study commission on coastal area management. The Coastal Area Management Act introduced in the 1973 Session was the product of that Commission.

Because of considerable interest in this legislation, the bill was held over for further hearings and study between the 1973 and 1974 sessions. A joint Senate-House Committee held day-long hearings in five cities in the coastal area. The bill was then the subject of further scrutiny by the committee, which resulted in submission of a re-drafted bill to the 1974 Session. After further committee action and numerous floor amendments, the bill was finally enacted two days before adjournment.

The bill establishes a cooperative program between state and local government for management of future growth in the coastal area. State government establishes areas of environmental concern. Local government has the initiative for planning, with state government acting in a supportive standard-setting and review capacity. Enforcement is a concurrent State-local responsibility.

Two new state level agencies are established. A Coastal Resources Commission, consisting of 15 members appointed by the Governor (12 from nominees submitted by counties and cities in the coastal area; three with no restrictions), approves land use plans submitted by the counties, designates areas of environmental concern and approves or denies permits for major development within those areas. (Permits for minor development are issued at the local level, subject to appeal to the Commission). A Coastal Resources Advisory Council, consisting of not more than 47 members, most of whom represent state and local government, assists the Secretaries of Administration and of Natural and Economic Resources in an advisory capacity.

The bill contains standards for designating areas of environmental concern and for granting or denying permits for development within these areas. These standards were carefully drafted after consideration of the land use statutes of other states as well as the particular problems of North Carolina. The bill also contains provisions for expedited court proceedings to determine whether the denial of a permit for development amounts in practical effect to a taking of property for which the landowner must be compensated.

While this bill, like all major legislation, is the product of compromise, it represents a significant step for North Carolina in the area of land use planning and regulation. The Governor has now designated 20 counties to be subject to the provisions of the act. These counties and the qualified cities therein have submitted their nominations for the Commission. If the Governor makes his appointments wisely, and if the State and local governments fulfill their responsibilities, this act can aid significantly in preserving and promoting the orderly growth of North Carolina's coastal region.

Conference draws management views

Maintaining open lines of communication among federal, state and local governments and citizens of coastal North Carolina emerged as a major concern at a recent conference on coastal land management.

The conference, held May 16-17 at the Duke University Marine Laboratory in Beaufort, attracted more than 200 participants. It provided a forum for the land management views of state and local governments, the public, planners, developers and the financial community.

Dr. Lynn Muchmore, state planning officer, stressed the importance of examining the effects of regulations on coastal people. "The people are the most important factor in coastal management. Polluters have been getting indirect subsidies in the past by the public. We must make sure the costs of management to curb pollution don't fall on those least able to pay," he said.

Joe Porter, president of Design Workshop, addressed the interests of consultants. He urged that "a process be developed in which people can continue to communicate over time to answer questions that arise, not just communicating when a crisis occurs."

UNC-Wilmington social work instructor, Delilah Blanks, charged that "the Coastal Area Management Act is useless unless some changes are made. Poor whites, blacks and minorities must be able to share in coastal living and decisions. Now they are given no role in policy formulation," she said.

The conference was sponsored by the UNC Sea Grant Program, the Center for Marine and Coastal Studies, the Coastal Plains Center for Marine Development Services and the NCSU Division of Continuing Education.

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Planning for tomorrow

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categories—areas of environmental concern and all other areas. Environmentally sensitive areas, to be designated by the state Coastal Resources Commission, include wetlands, dunes, estuarine lands and waters, watersheds, wildlife, scenic and historic sites, and areas where the public may have special rights or where development may be hazardous.

Under the act, the state is charged with regulating development in areas of environmental concern. In all other areas, the management law allows county and city governments to determine uses for lands and waters, the professor points out.

The act calls for each of the 20 coastal counties to submit a plan for development by December 1, 1975, to the state Coastal Resources Commission (CRC). If a county fails to comply, the state will develop a plan for that county.

The CRC, a new state agency established by the coastal act, is charged with reviewing and approving county plans, Schoenbaum points out. The 15-member commission, chosen by the governor, is to be made up of 12 local government nominees.

In order to build on or develop an area of environmental concern, the developer must apply for a permit, according to the new law. Where he applies depends on the size of his development and on whether it presently requires approval from a state agency. Schoenbaum explains that permits for major developments must be obtained from the state CRC, while permits for minor developments are to be granted by local governments.

A major development, according to the law, occupies more than 20 acres, consists of a structure of more than 60,000 square feet or meets conditions presently requiring a special state permit, such as for dredging or filling of marshlands. Minor developments include all others.

Law students study issues of international sea law

Most North Carolinians will probably never see the foreign ships that fish regularly off their state's shore.

But as world food and mineral supplies dwindle and nations scramble to grab the sea's bounty, North Carolinians are likely to hear more about fishing and mining rights in the ocean.

Students at the University of North Carolina School of Law have delved into a wide range of ocean-related issues confronting all nations. Their research into offshore disputes that have flared in the past promises to help guide the thinking of policy-makers at both the state and national levels as they regulate activities off their coasts.

Dr. Seymour W. Wurfel, UNC law professor who



North Carolina fishermen are likely to meet more competition from foreign fishing vessels in the future. UNC law students are studying ocean law to learn more about fishing rights issues facing the state and nation.

has support from Sea Grant, has directed the students' legal research. Through their efforts, the students, many of whom are now practicing law, have become acquainted with the law of the sea. At the same time they have made significant contributions to an understanding of ocean issues through publication of their studies.

Much of their research has focused on the conflict over how far offshore a nation can claim exclusive fishing rights. Most coastal nations have agreed that other countries cannot fish or mine in waters within 12 miles of their shore. But to protect and conserve their fishery resources, 12 nations have extended their exclusive fishing rights to 200 miles offshore. Iceland, aiming at guarding her cod fishery, set her fishing rights at 50 miles in 1972, a move which brought on the second "cod war" with England.

As nations increasingly turn to the sea for minerals, foods and other resources, it becomes essential that to avoid conflict all nations share in the seas' wealth and that all realize that their activities on the high seas affect the entire world. Law students have analyzed the possibilities and problems of developing a set of international rules to regulate the exploitation of the oceans and to insure that all nations share in ocean resources. They have also studied how polluting or fishing activities of one nation affects all.

A United Nations conference in Caracas, Venezuela this summer will seek to resolve some of the problems UNC law students have defined and discussed in their research. At the conference, nations will try to agree on the limits of exclusive fishing rights and on international regulations governing the use and conservation of ocean resources.

Even though the issues sound far removed from North Carolinians today, they will likely be affected by them tomorrow.

Workshop marks first step toward managing islands

Dredge islands in North Carolina's estuaries are valuable nesting sites for waterbirds such as gulls, terns and egrets, Sea Grant researchers have found.

In a workshop held at Atlantic Beach in late May, steps were taken that could set the stage for managing dredge islands for the birds.

Some 70 workshop participants, representing 25 agencies and organizations and seven states, heard a review of research conducted on the islands by Sea Grant researchers, Dr. James Parnell of UNC-Wilmington and Robert Soots of Campbell College.

In addition to exploring the legal, financial and engineering aspects of managing dredge islands for the birds, workshop speakers reviewed the biology of the birds and the effects of management on the estuarine environment.

A field trip to the dredge islands where the waterbirds were nesting was a highlight of the workshop.

It was pointed out during the workshop that dredge island management is already being carried out in a cooperative effort by the U. S. Army Corps of Engineers, Wilmington District and Sea Grant researchers, Parnell and Soots.

But participants concluded that a more comprehensive management program is needed and that responsibility for such a program should lie with an agency charged with resource management throughout the ecosystem, not just on the dredge islands.

It was agreed that a lack of knowledge of the number of birds nesting in North Carolina and other states could hamper the effectiveness of a management effort.

The workshop was jointly sponsored by Sea Grant and the N. C. Agricultural Extension Service.

UNC SEA GRANT PUBLICATIONS

The following are publications produced by UNC Sea Grant relating to coastal management and the law of the sea. They are available from the Program office.

Attitudes Regarding a Law of the Sea Convention to Establish an International Seabed Regime. Wurfel, S. W., ed. UNC-SG-72-02.

Public Rights and Coastal Zone Management. Schoenbaum, T. J. UNC-SG-72-13.

The Surge of Sea Law. Wurfel, S. W. UNC-SG-73-01.

The Latin American Approach to the Law of the Sea. Samet, J. H. and R. L. Fuerst. UNC-SG-73-08.

The Continental Shelf Lands of the United States: Mineral Resources and the Laws Affecting their Development, Exploitation and Investment Potential. Dahle, E. UNC-SG-73-11.

International Fishery Law. Wurfel, S. W. UNC-SG-74-01.

Emerging Ocean Oil and Mining Law. Wurfel, S. W. UNC-SG-74-02.

Current Aspects of Sea Law. Wurfel, S. W. UNC-SG-74-03.

State and Federal Jurisdictional Conflicts in the Regulations of United States Coastal Waters. Suher, T. and K. Hennessee. UNC-SG-74-05.

Maritime Resource Conflicts—Perspectives for Resolution. Messick, P. UNC-SG-74-06.

The Abstention Doctrine. Freeman, B. UNC-SG-74-07.

University of North Carolina
Sea Grant Program
1235 Burlington Laboratories
North Carolina State University
Raleigh, N.C. 27607



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