

## **2006-2007 Annual Report of the North Carolina Coastal Resources Law, Planning and Policy Center**

### **Introduction**

The past eight months have been a very active time for the NC Coastal Resources Law, Planning and Policy Center (Center). During that time, the Center has engaged in number of exciting projects, which are detailed later in this report. It also benefited from the wonderful work of three UNC law students who worked as research fellows. Walter Clark, Center co-director and North Carolina Sea Grant Law and Policy Specialist, retired from North Carolina Sea Grant and from the Center as of February 1, 2007, leaving a temporary gap in leadership. Walter's absence from the work of the Center will be greatly missed, although we hope to keep him tangentially involved. Walter's position at Sea Grant, and the Center, will now be held by Lisa Schiavinato, who will be joining the North Carolina Sea Grant program on May 1, 2007. Lisa's resume is attached as Appendix A.

### **Center Research Fellows**

During the past year Kevin Cheshire, Erin Wynia, and Jared Zajak, who have just finished their second year of law school, have been the Center's research fellows, researching important coastal legal and policy issues, making presentations to the Coastal Resources Committee, the legislatively created Waterfront Access Study Committee, and other committees. This summer all three plan to work for law firms. They, too, will be greatly missed.

Two new research fellows, Amy Dessel and Douglas Hendrick, who just completed their first year of law school, have been hired for the summer and both will be working on the Ocean and Coastal Policy project, which is described later in this report. If the need arises, the Center will also have available the services of Brandon Dhande, another law student, who is Joe Kalo's personal research assistant. We hope at some point in the near future to add a graduate student at the University of North Carolina School of City and Regional Planning as a research fellow.

## **Center Projects: 2006-2007**

### ***Multi-Slip Docking Facility Project***

In September 2006, the Center and its research fellows completed its Multi-Slip Docking Facilities Report and submitted the Final Report with recommendations to the North Carolina Division of Water Quality and the North Carolina Division of Coastal Management. A copy of the report “Multi-Slip Docking Facilities in North Carolina – Are They Sufficiently Managed?” is contained in Appendix B. The report was prepared in consultation with the Multi-Slip Docking Facility Advisory Committee, chaired by Center Co-Director Walter Clark, and represents the culmination of several months of committee meetings and discussions, Center research and two public meetings.

### ***Floating Lifts and Vessel Platforms Report to CRC***

In early 2006, while the Multi-Slip Docking Facility Study was underway the N.C. Coastal Resources Commission (CRC) requested that the Coastal Center and advisory committee also examine regulatory issues involving certain types of floating structures that might be used in association with existing docks and piers. In particular, the CRC was interested in a product distributed by North Carolina Floating Docks and Lifts, LLC (NC Floating Docks) called Jet Docks. Jet Dock manufactures floating boatlifts and vessel platforms. The lifts are plastic devices that float on the surface of the water and serve as a support to store boats and other types of vessels when not in use. Under the supervision of the Center co-directors, research fellow Kevin Cheshire investigated these issues and wrote a report, which was submitted to the CRC in September 2006 at a meeting in which Mr. Cheshire also made an oral presentation to the CRC. A copy of the report “Floating Lifts and Vessel Platforms” is contained in Appendix C.

### ***Waterfront Access Study Committee***

As the Multi-Slip Docking Facility, the Center became an active party in the work of the Waterfront Access Study Committee established by the General Assembly in August 2006. The legislation authorizing the Study Committee stated:

The Committee, with the assistance of the Sea Grant College Program of the University of North Carolina and the North Carolina Coastal Resources Law, Planning, and Policy Center, shall study the degree of loss and potential loss of diversity of uses along the coastal shoreline of North Carolina and how those losses impact public trust waters of the State...

Session Law 2006-248, Section 45.3 (August 16, 2006). The Center and its research fellows researched and drafted reports and made presentations to the Committee on various legal issues that arose during the course of the Committee’s

eight-month investigation. The Committee's final report was submitted to the General Assembly on April 15, 2007. Appendix C of the WASC report is attached as Appendix D and identifies many of the Center's reports and presentations given by the co-directors and research fellows Kevin Cheshire, Jared Zajac, and Erin Wynia.

### **Continuing Legal Education Programs**

On October 27, 2006, the Center held a four-hour continuing legal education program entitled "The Shape of the Coast: Current North Carolina Coastal Development Issues" in Wilmington, North Carolina. The program was attended by more than 100 people. The speakers were Joseph Kalo, Center Co-Director; Walter Clark, the Center's then Co-Director; Meredith Jo Alcoke, Assistant North Carolina Attorney General; and Ted Tyndall, North Carolina Division of Coastal Management. A copy of the program described is attached as Appendix E. A mini-version of this program was presented in February 2007 as part of the law school's annual "Festival of Learning."

### **Planned Projects – Summer and Fall 2007**

#### *Ocean and Coastal Policy Study*

The Center will work with the North Carolina Division of Coastal Management to produce an ocean and coastal policy report. The purpose of the report will be to review North Carolina's ocean and coastal policy structure and to devise policy options that will better prepare the State to meet the challenges ahead, such as coastal wind energy projects, large-scale aquaculture, oil and gas exploration, increased demand for beach nourishment, public access and numerous other challenges.

The Center's role in the project will be to examine an earlier 1994 Ocean Policy Report and its recommendations to determine which recommendations were implemented and which were not. As part of its work, if a recommendation was implemented, the Center will determine whether the identified challenge was adequately addressed; if a recommendation was not implemented, the Center will try to find out why the recommendation was not followed. After the analysis of the earlier report is completed, the Center will turn to helping identify new challenges, what other states are doing to address similar challenges, and provide legal and policy research support for the Project Steering Committee to be established by the Division of Coastal Management.

This project will be funded by the Division of Coastal Management, Sea Grant, and the law school. The bulk of the funding will be provided by DCM. Two law student research fellows will be working full-time for ten weeks on the first phase of the project. A copy of the DCM project proposal is attached as Attachment F.

### *Continuing Legal Education Program – Current Coastal Issues*

With the successful completion of last October's continuing legal education program, which was held in Wilmington, the Center is planning another similar four-hour continuing legal education program to be held in New Bern on October 26, 2007. The content of the program is under development. The plan is to include a mini-version of this program in the law school's 2008 Festival of Learning.

### *Other Projects*

Whether the Center will undertake any additional projects over the next year depends on several factors: how the work on the ocean and coastal policy project progress, whether the General Assembly continues any study of waterfront access issues, and whether the Center identifies any other projects for which funding is available to pay for researchers and related costs.

### **Legal Tides**

The Center continued to publish the *Legal Tides* newsletter, with issues to be published in Summer 2007 and Fall 2007. [A copy of the Fall/Winter 2006 issue is attached as Attachment G] Work is underway on the Summer 2007 issue, which will feature a discussion of dock-o-miniums.