THE FUTURE OF THE MARSHLANDS AND SEA ISLANDS OF GEORGIA: THE NEXT 50 YEARS

Speakers: Carolyn H. Rader, AICP
Center for a Sustainable Coast
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Bill Sapp, Senior Attorney
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The 50th Anniversary of the Conference on the Future of the Marshlands and Sea Islands of Georgia

A Brief History
Georgia Planning Association’s Fall Conference, September 6, 2018

Carolyn H. Rader, AICP
Policy Adviser, Center for a Sustainable Coast
On October 13 and 14, 1968 a Conference was held at the Cloister, Sea Island, Georgia to consider the future of the marshlands and islands of Georgia. The Conference was convened by the Georgia Council for the Preservation of Natural Areas together with the Coastal Area Planning and Development Commission to provide a plan of action for the marshes and sea islands of Georgia.
Alternatives for Action - Coastal Georgia

A Proposal for a Marshbank and the Statewide Zoning of Estuarine, Georgia

Dr. Eugene P. Odom.
Professor of Zoology and
Chairman of the Institute of Ecology, University of Georgia, Athens, 74
INNER ISLAND

MARSH — ESTUARY PRODUCTION ZONE

Salicornia
Distichlis
Marsh

Production
Units

Mash Grass Mud Algæ
Phytoplankton

High Tide

MARSH ZONATION
Fig. 2A

Low Tide

BIOLOGICAL PRODUCTION UNITS
1. MARSH GRASS
2. SEDIMENTARY ALGAE
3. FLOATING ALGAE

MARSH FERTILITY IS THE SUM OF THREE DIFFERENT PRODUCTION UNITS

Fig. 2B
THE IMPENDING CRISIS -- PHOSPHATE MINING OFF THE GEORGIA COAST

Dr. Frederick C. Marland, Marine Ecologist
University of Georgia Marine Institute
Sapelo Island

I am interested in salt marsh and estuarine ecology. In the past fifteen years, Sapelo's involvement with the estuaries has had far reaching effects on questions concerning the quality of the environment in the United States. I would like to present a little background about the Marine Institute.
Georgia Marshlands Pure No More

Atlanta (UPI) — A crucial battle over a rare tree is on the horizon in coastal Georgia. The battle centers on a small, nearly 200-year-old wetland that has been valued by its neighbors for its unique ecosystem.

The marshland is home to a variety of plant and animal species, including the endangered red-cockaded woodpecker. The area is also a critical habitat for a number of migratory birds and other wildlife.

Local residents and environmental groups have been fighting to preserve the wetland for years. They argue that it is an irreplaceable part of the state's biodiversity and should be protected.

The battle has reached a new level of intensity with the recent approval of a development plan that would allow for the construction of new homes and businesses in the area. Opponents are now calling for a moratorium on further development until more comprehensive environmental impact assessments can be conducted.

A similar battle over a marshland in South Carolina led to a successful court case and the establishment of a national park. Advocates in Georgia hope to follow in their footsteps and secure protections for their vulnerable ecosystem.

In Georgia

Marsh Mining Controversy Before Court

Atlanta, Ga. (AP) — More than $8 billion in phosphate rock lies beneath Georgia's marshlands, and a pending court decision could clear the way for mining in the fragile environment, some officials fear.

Mining for minerals on the Georgia coast can increase the flow of salt water encroachment in the pure-water aquifer under parts of Georgia, Florida and the Carolinas and endanger water supply to many Eastern Seaboard cities, they warn.

A 1979 state law and the 1980 federal Clean Water Act both ban industrial mining of the state's mineral resources, including phosphate rock. The state Department of Natural Resources has proposed a change to the law that would allow for mining.

Environmentalists and some local officials have opposed the new rule, saying it would allow for more mining and threaten the state's water supply.

In the early 1990s, the U.S. Army Corps of Engineers gave permission to a phosphate mining company to reintroduce phosphate mining in the state's marshlands. The mining continued for about a decade but was halted in 2000 due to environmental concerns.

The mining company, which had already removed millions of tons of phosphate from the marshland, announced plans to restart mining in the late 1990s. But the state's environmental regulations and the U.S. Army Corps of Engineers' permits have kept the mining company from proceeding.

Activists argue that mining in the marshlands would damage the fragile ecosystem and threaten the state's water supply.

The mining company's management has said it would seek new permits to restart mining in the marshland.

The company has been involved in a legal battle with state and federal authorities over its mining operations, and the case is ongoing.

Introducing the Coastlands Wait

by Reid W. Harris

Introduction by President Jimmy Carter
Thank You To Our Visionary Leaders in 1968 and beyond.

Let Us Return the Favor by Planning Wisely for 2068!
Coastal Marshlands Protection Act

Georgia Planning Association Fall Conference
September 6, 2018
Karl Burgess, Assistant Director
Based on the Public Trust Doctrine of law, the lands beneath the waters subject to the ebb and flow of the tide are owned by the State, and held in trust for the benefit of all people.

In Georgia, the Governor has general supervision over all property of the State, including tidal lands.

The Governor has delegated the responsibility of protecting the public’s interest in tidal lands, waters, and living resources to the Department of Natural Resources.
The Public Trust Doctrine

The application of the public trust in Georgia during modern times, began with an Opinion Letter issued on March 16, 1970 – from the State Law Department to the Army Corps of Engineers, declaring the State’s ownership of ungranted Coastal Marshlands throughout Georgia in accordance with the Public Trust Doctrine.

A valid Crown Grant from the King of England or a grant from the Georgia General Assembly, are the only exceptions of State ownership of tidal waters and marshlands.

A number of Supreme Court decisions throughout the years have upheld the fact that the tidal waters and marshlands of Coastal Georgia are owned by the State, in trust, for the benefit of all people.
“The General Assembly finds and declares that the coastal marshlands of Georgia comprise a vital natural resource system. The estuarine area of Georgia is the habitat of many species of marine life and wildlife that cannot survive without the food supplied by the marshlands. The estuarine marshlands of coastal Georgia are among the richest providers of nutrients in the world.”

“Also, it is found that the coastal marshlands provide a natural recreation resource which has become vitally linked to the economy of Georgia's coastal zone and to that of the entire state. The General Assembly further finds that this coastal marshlands resource system is costly, if not impossible, to reconstruct or rehabilitate once adversely affected by man related activities and is important to conserve for the present and future use and enjoyment of all citizens and visitors to this state.”

(O.C.G.A. 12-5-281, et seq.)
“Coastal marshlands” or “marshlands” means any marshland intertidal area, mud flat, tidal water bottom, or salt marsh in the State of Georgia within the estuarine area of the state, whether or not the tidewaters reach the littoral areas through natural or artificial watercourses.

Staff conducts marsh delineation, at no cost, using the 14 tidal marshland plants and other indicators as identified in the Coastal Marshland Protection Act (O.C.G.A. 12-5-280, et seq.)

“Estuarine area” means all tidally influenced waters, marshes, and marshlands lying within a tide-elevation range from 5.6 feet above mean tide level and below.
Coastal Marshlands Protection Act Permits

• Are water dependent
• Do not have a non-marshland alternative site
• Do not unreasonably harm or alter the natural flow of navigational water
• Do not unreasonably increase erosion, shoaling of channels or create stagnant pools
• Do not unreasonably interfere with conservation of marine life, wildlife or other resources

“No person shall remove, fill, dredge, drain, or otherwise alter any marshlands or construct or locate any structure on or over marshlands in this state within the estuarine area thereof without first obtaining a permit from the committee or, in the case of minor alteration of marshlands, the commissioner.”

O.C.G.A. 12-5-286 (a)(1)

Generally, projects may be permitted if they:

• Are water dependent
• Do not have a non-marshland alternative site
• Do not unreasonably harm or alter the natural flow of navigational water
• Do not unreasonably increase erosion, shoaling of channels or create stagnant pools
• Do not unreasonably interfere with conservation of marine life, wildlife or other resources
The following items are typically contrary to the public interest:

- Filling of marshlands for residential, commercial, and industrial uses
- Filling of marshlands for private parking lots or private roadways
- Construction of dump sites and depositing any waste materials or dredge spoil
- Dredging of canals or ditches for the purposes of draining coastal marshlands
- Mining
- Construction of lagoons or impoundments for waste treatment, cooling, agriculture, or aquaculture which would occupy or damage coastal marshlands and life forms
- Construction of structures constituting an obstruction of view to adjoining riparian landowners, including signs and enclosures

O.C.G.A. 12-5-288 (b)
391-2-3-.02, Regulation of Upland Component of a Project

- Procedure for Determining Project Boundaries
- 50’ Marshlands Buffers for Upland Component
- Stormwater Management Standards for the Upland Component
- Impervious Surface (Goal of 15% Effective Impervious Surface)
391-2-3-.03, Regulation of Marinas, Community Docks, & Commercial Docks

- Tier One Community Crab Dock
- Tier Two Community Dock
- Tier Three Community Dock or Commercial Dock
- Marinas
- Community Dock, Commercial Dock, or Marina Modification
In most cases, staff works with applicants/agents prior to an application being filed. These meetings are typically called “pre-application” meetings. It is in these meetings that staff informs applicants/agents the requirements of the CMPA as well as provide technical assistance and recommendations.

All CMPA applications are placed on public notice once staff has determined the application to be substantially complete.

In the case of CMPA proposals qualified as a “Minor Alteration” (impacts less than 1/10 of an acre), the staff emails all CMPC Members a copy of the decision documents and staff’s findings and recommendations.

CMPA permits granted by the Committee become final upon issuance, but no construction or alteration may commence until the expiration of 30 days following the date of issuance.
Committee Members

• **Rick Gardner** - An aviation consultant and Bryan County Commissioner (2010-2019)

• **Chad Barrow** - CEO of a Logistics Company (2018-2021)

• **Zach Harris** - An attorney from St. Simons Island (2016-2018)

• **Bill Hodges** - An engineer from St. Simons Island (2017-2020)

The Board of Natural Resources appoints the Committee Members. In 2004, legislation was passed expanding the Committees by 2 members. Three of the five members must be from the coast. The DNR Commissioner is an obligated seat.
Typically, private recreational docks are exempt from the CMPA.

Two types of permitting process for PRD’s that are exempt from the CMPA:

1. Programmatic General Permit 0083 (PGP)
2. Individual Permit Process
Permission to Use State Lands

Revocable Licenses

- Letters of Permission (LOP)
- Private Recreational Docks
- Bank Stabilization Projects
  - Bulkheads
  - Riprap
  - Living Shorelines
  - Etc...
- CMPA Projects
- CMPA Exempt Projects
- COE Nationwide Projects

Waterbottoms Leases

- A Waterbottoms Lease is required for a dock facility that has 500 or more linear feet of mooring space
- In 2009, there was an amendment to the CMPA and additional Rules adopted to clarify determining boundaries and annual lease rates

Easements

- GA DNR Board Reviewed
- General Assembly Approved
- Issued by State Properties Commission
Karl Burgess
Assistant Director
GA Department of Natural Resources
Coastal Resources Division

One Conservation Way, Brunswick, GA 31520
(912) 264-7218
From Marshes to Mainland

Denise R. Grabowski, AICP, LEED AP
Coastal Planning + Management

- Coastal Advisory Council
- Task Force Committees
- Coastal Comprehensive Plan
Coastal Advisory Council

- Coastal Incentive Grant Program
  - $20M in 20 years
- Foster communication between the Coastal Management Program and coastal stakeholders
- Members represent:
  - Local Governments
  - Regional & State Organizations
  - Environmental Organizations
  - Research / Academia
  - Citizens-at-Large
UPLAND IMPACTS
MARSH HAMMOCKS
Georgia Coastal Comprehensive Plan

- Executive Order – Gov. Purdue (2005)
  - Growth of the region
  - Economic impact of tourism, recreation, and industries
  - Vulnerability of the coastal region
  - Increase stakeholder input
  - “Sustainable economic development without compromising the natural appeal that attracts coastal visitors”
  - Healthy coast
Rethinking Regional Planning

Regional Perspective
- Identification of regional issues
- Identification of regional implementation strategies

Local Perspective
- Local community identity
- Local coordination

Diagram:

- **Regional Coordination**
  - **Infrastructure**
    - Water & Sewer
    - Stormwater
    - Transportation
  - **Intrinsic Resources**
    - Natural Resources
    - Cultural & Historic Resources
  - **Regional Growth Management**
    - Economic Development
    - Business & Industry
    - Tourism

**Regional Cooperation**
CCPAC

- Diverse, regional perspectives – public and private sector representation – 34 members

- Stakeholders from Georgia’s six coastal counties: Bryan, Camden, Chatham, Glynn, Liberty and McIntosh

- Four state agencies: DCA, DEcD, DNR, and DOT.

- Chaired by DCA Commissioner Beatty
Public Outreach

- Three rounds of public meetings – held across the region
- CCPAC meetings
- Local Government Technical Advisory Committee
- Special interest advisory committees
- Website
- Other meetings as needed
- Community Choices Survey
- Local government interviews
- Local media outlets
Plan Components

- Quality Growth Audits
- Development Scenario Analysis
- Recommendations and Implementation

Plan Benefits

- A “level playing field” for local governments
- More uniform standards for the development community
- Educated local officials and stakeholders
What’s Next....
The Good, the Bad, and the Ugly
of the Coastal Marshlands Protection Act
Bill Sapp
Senior Attorney
Southern Environmental Law Center
Georgia’s Marsh Hammocks
A biological survey
Questions?