

Marshland Protection Cases: Emerald Pointe & Man Head Marina

A bridge too far and a site too small

Testing the Marshlands Protection Act

In 1970, the Georgia legislature enacted the Coastal Marshlands Protection Act to protect this “vital natural resource system.” The Act requires persons to obtain a state permit prior to making alterations to marshlands and establishes the Coastal Marshlands Protection Committee to implement the permit program

In recent years, increased population and development activities on the Georgia coast have exerted pressures on the coast’s fragile ecosystems. As the supply of available waterfront properties has dwindled, developers have begun to target marsh hammocks as potential new sites for waterfront development.

Access roads built across the marsh and residential development of marsh hammocks adversely impact the surrounding marshlands and tidal waters by siltation, polluted runoff, and failing septic systems.

Emerald Pointe Ruling Called “Disappointing”

A bridge too far

Administrative Law Judge Jesse Altman recently upheld a permit for the development of three small upland areas in the coastal marsh near Savannah. The permit was the subject of a legal challenge brought by the Southern Environmental Law Center (SELC) on behalf of the Georgia Center for a Sustainable Coast, Altamaha Riverkeeper and the Sierra Club. “We are disappointed in the decision,” said Wesley Woolf, director of SELC’s Atlanta office. Woolf added that the conservation groups are concerned about the precedent this permit could set along the coast, where development pressure is increasingly threatening the marsh hammocks and surrounding ecosystems. “We don’t think developers have the right to destroy marshes owned by the citizens of Georgia to develop land for personal gain,” he said.

The controversial permit has drawn statewide and national attention to the plight of these ecologically sensitive “marsh hammocks,” which were identified by Scenic America earlier this year as one of America’s most endangered landscapes. In addition, marsh hammocks provide roosting and refuge sites for marsh wildlife, such as wood storks, bald eagles and ibises.

The state Department of Natural Resources issued a permit in 2001 to Emerald Pointe development to build three private bridges over state-owned marshlands off the mainland in

Savannah. The bridges use two marsh hammocks as stepping stones to a third hammock for a planned community dock or marina. The two other hammocks would have as many as 40 high-end houses or condominiums. While the Coastal Marshlands Protection Committee has issued permits allowing the development of marsh hammocks in the past, this was the first administrative challenge to the issuance of such a permit.

The groups filed an appeal of the permit last March, saying the state had failed to consider the full environmental impact of the bridges, particularly the impact from the development they would engender. Although the court concluded that development on the marsh hammocks would not occur without the bridges, the court considered only the direct environmental impact from the bridges in ruling on the permit.

“I think most Georgians would be surprised to learn that state-owned marshes are not protected from developers who want to build private roads to develop hammocks,” said Chris DeScherer, SELC attorney.

The court’s final order includes a significant pronouncement regarding this important issue, Woolf noted. The order states: “If access to private land and development of private land is considered potentially destructive to the overall area of coastal Georgia and the marshlands, some real legislative changes would be necessary to address these concerns.”

The case is being appealed in Superior Court, challenging the administrative law judge decision in favor of the DNR, which supports the bridge building.

Appeal Heard in Man Head Marina Permit

A site too small

From April 9 through 11, Administrative Law Judge Jesse Altman presided over the appeal of a Coastal Marshlands Protection Act permit authorizing the construction of a marina to be located on the western bank of the Intracoastal Waterway adjacent to the Torras Causeway which connects Brunswick and St. Simons Island, Georgia. The appeal was filed by the Southern Environmental Law Center representing five coastal environmental groups, including the Center for a Sustainable Coast. The four other organizations are: Altamaha Riverkeeper, Glynn Environmental Coalition, Residents United for Planning and Action, and the local group of the Sierra Club. At issue are various threats to water quality, aquatic habitat, and public safety that result from the marina's size and location.

The marina permit authorizes the construction and maintenance of a full-service marina on less than one acre of private uplands, supported by an additional 10.5 acres of public water bottoms. Marina plans call for 109 wet slips, a 785-foot transient fueling dock, a travel lift structure, an 11,000 square foot dry dock and boat maintenance yard, a storm drainage system that will discharge stormwater directly to the marsh, a building for a marina store and administrative offices, a septic system, a paved parking lot with 42 spaces, and a bulkhead at the marsh edge that will surround the entire 1-acre upland. In addition, the application reveals that the development will cover the entire upland, leaving no buffer between the development and the marsh.

The Petitioners argued that this marina will severely degrade surrounding marshlands and coastal waters by directly discharging polluted runoff from the parking lot and boat

maintenance yard and wastewater from on-site restrooms and boats that dock at the facility. Further, although the developer had maintained throughout the permitting process that the development of the marina would not require the filling of wetlands, Petitioners demonstrated that the changes required to the Torras Causeway to afford access to the marina site would likely require the filling of marshlands. A ruling on the case is expected this summer.



**Man Head Marina Site
on the MacKay River in Glynn County**