



Advocating responsible decisions to sustain the quality of life in coastal Georgia.

www.sustainablecoast.org

(912) 506-5088

Look for the Center on Facebook

February 4, 2016

Board of Natural Resources
Department of Natural Resources
205 Butler Street, SE
Suite 1252 East Tower
Atlanta, GA 30334

Re: Expanded comments on buffer rules, enforcement practices, and resource management

Dear DNR Board Members:

As a follow-up to the recent discussion of marsh buffers at the January 29th meeting at Saint Simons Island, I'd like you to consider the following points, which elaborate on comments I made about the recently adopted marsh buffer rules at that meeting. Many of these comments apply to all buffers administered under Georgia's Soil Erosion and Sedimentation Control Act.

- The rules refer to “minimal disturbance of buffer vegetation” but to my knowledge there is no measurable or enforceable standard for interpreting that requirement. There's also an absence of measurable standards for other stated objectives in the rules, including the assurance that the quality of the buffer and related habitat will be maintained after variances are approved.
- Because there has been no study of past variances and their impacts on “waters of the state,” DNR/EPD has no conclusive evidence of what the buffer program is actually achieving. Lacking such crucial information makes “resource management” virtually impossible because management requires verifiable proof about the consequences of current enforcement practices and decisions. [Hundreds of these variances have been issued over recent years and over 85% of those applied for have been issued, yet nothing is known about their impacts. Please see the attached summary.]
- “Variance by rule” allows 500 square-feet of buffer area to be disturbed without any application or review being required. On a typical residential lot with a 100-foot marsh frontage, that means that the 25-foot buffer is – in effect – reduced to only 20 feet in width. By adopting the 500 square-foot “variance-by-rule” exemption, there's a **reduction of the buffer width** by 20% or more when lots are 100 feet or less in width. While 500 square feet may not seem like much area, diminishing buffer protection by 20% is significant – and in my view – unintended, unacceptable, and contrary to legislative objectives.
- As drafted, rules aren't clear whether historic erosion problems need to be properly demonstrated for an applicant to receive a variance for shoreline stabilization. We firmly believe that if such stabilization approval is requested the application **MUST** include convincing, verified evidence of shoreline erosion **AND** the proposed stabilization methods must honor “management practices” as prioritized in the latest edition of *Green Growth Guidelines*, which explicitly discourage the use of bulkheads. The rules as adopted make no reference to these guidelines despite their key relevance.



Advocating responsible decisions to sustain the quality of life in coastal Georgia.

www.sustainablecoast.org

(912) 506-5088

Look for the Center on Facebook

Page 2

Re: Expanded comments on buffer rules, enforcement practices, and resource management

- EPD should adopt a program of buffer-variance impact assessment by periodically conducting field-survey sampling of areas adjacent to – and downstream from – variance sites to determine the individual and cumulative impact of approved variances activities. Findings from such assessments should then be used to revise rules and administrative practices to ensure that the goal of protecting water quality and aquatic habitat is honored.
- The purpose of the buffer is to protect adjacent marshes and waters from being polluted by soil erosion and related storm-water run-off contaminants, which are reported to be the most widespread water-quality problem in Georgia. Anything that removes or destroys vegetation in the buffer will weaken its ability to retain the soil and prevent erosion and consequent pollution. Use of herbicides, by definition, destroys plants and thus could significantly reduce the protective benefits of the buffer, including erosion prevention and run-off filtration. For that reason, it is imperative that restrictions be adopted on the use of herbicides within the buffer.

I greatly appreciate your willingness to give thoughtful consideration to these comments.

On behalf of our members, board, and advisors, I urge you to take the above critique in mind as you seek to strengthen, refine, and improve Georgia's buffer protections under the Soil Erosion and Sedimentation Control Act by amending rules and practices.

Georgia's economic prospects and quality of life depend on a clean and healthy environment. Unless buffers are used effectively by consistently enforcing well-understood, measurable regulatory standards, the state's water-quality will suffer. For the reasons explained above, we are concerned that existing standards and practices lack such assurances.

If you have any questions or suggestions about my advice on the buffer rules or related resource management issues, please reply.

Sincerely,

David C. Kyler
Executive Director