Working Waterfronts Preservation in North Carolina, and the Potential for Involvement by Environmental Defense Fund

by

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Abstract

The face of North Carolina’s coast is changing. Rampant development is leading a shift from traditional working waterfront communities, which support commercial fishing and related businesses, to condominiums and housing developments. The loss of working waterfronts, including the subsequent economic, cultural, and historical changes, coupled with the loss of public access to public trust waters, led the North Carolina General Assembly to take action. In 2006, the General Assembly created the Waterfront Access Study Committee and charged the Committee with examining the changing nature of North Carolina’s coast and recommending ways for the state to halt these changes.

This masters project reviews the progress and current status of the waterfront access program in North Carolina, and it explores opportunities for Environmental Defense Fund to get involved in the waterfront access issue, either through the state program or through alternative opportunities. The report relies on information gleaned from literature reviews, interviews of Waterfront Access Study Committee members, and attendance at public meetings of the Waterfront Access Study Committee, the General Assembly Joint Legislative Commission on Seafood and Aquaculture, and the Citizens Advisory Committee to the Waterfront Access and Marine Industry Fund.

The report begins with a review of the work of the Waterfront Access Study Committee and its recommendations. It then reviews the General Assembly’s response to the Committee’s report. The General Assembly’s actions included the extension of present use value taxation to working waterfront properties, the creation of the Advisory Committee for the Coordination of Waterfront Access, to oversee future waterfront access work, and the establishment of the Waterfront Access and Marine Industry Fund, which will distribute $20 million for working waterfront and public access projects throughout the state. The review of the General Assembly’s response concludes with a discussion of the current status of the state’s waterfront access program, especially the efforts of the Waterfront Access and Marine Industry Fund to identify the most appropriate projects for funding.

Present use value taxation offers little opportunity for involvement by Environmental Defense Fund, except to advocate for present use value taxation for waterfront conservation properties. The Advisory Committee for the Coordination of Waterfront Access provides opportunities for Environmental Defense Fund to monitor the state’s waterfront access program and suggest improvements or new actions. The Waterfront Access and Marine Industry Fund allows Environmental Defense Fund to monitor and comment on the projects receiving funding and gives the organization a chance to identify sites which could apply for funding. Environmental Defense Fund also could get involved in waterfront access by building relationships with developers, establishing working relationships with fishermen, advocating for the creation of a new private or public-private waterfront access fund with conservation goals, supporting fishermen in their own efforts to preserve working waterfronts, and working with fishermen to develop seminars or workshops to share knowledge about working waterfronts preservation. These suggestions can help guide Environmental Defense Fund’s decision whether to expend resources to get involved in waterfront access issues in North Carolina.
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**Introduction**

In recent years, North Carolina’s coastal communities have experienced profound change. For over 200 years, North Carolina’s coast supported a successful commercial fishing industry and communities of citizens who relied on the industry for their livelihood.\(^1\) However, in recent years, the character of the coast has been changing, especially along the “Inner Banks,” which stretch along the western edge of the Pamlico and Albemarle Sounds. The Inner Banks include over 3,000 miles of waterfront property, and this property has attracted an ever-growing wave of development.\(^2\) More than 34,000 new homes in almost 100 subdivisions and condominium complexes were planned as of June 2006, and the building has continued.\(^3\) In addition to new housing, related commercial developments, including retail, lodging, dining, and recreational services, have also been migrating to the coast.\(^4\) All of this development boom has had, and will continue to have, profound effects on coastal communities, the commercial fishing industry, and the coastal environment.

A major driver of this coastal development is North Carolina’s remarkable population growth.\(^5\) From 1990 to 2006, North Carolina’s population grew 31%, with numerous coastal counties seeing even greater growth.\(^6\) Brunswick County’s population grew 76%, Currituck grew 68%, Pender 62%, Dare 50%, and New Hanover grew 49%.\(^7\) Such population growth has driven skyrocketing market demand for coastal real estate, leading to non-waterfront-dependent

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\(^3\) Id.

\(^4\) WASC Final Report, supra note 1, at 7.

\(^5\) Id.

\(^6\) Id.

\(^7\) Id.
shoreline development, increasing property taxes, a loss in the diversity of waterfront-dependent uses, and reduced public access.  

One of the biggest losers in the face of all of this development has been North Carolina’s commercial fishing industry. Typically, commercial fishing landings in North Carolina have generated between $60 million and $100 million annually. However, according to the Division of Marine Fisheries (DMF), between 2001 and 2006, the number of commercial fishermen in North Carolina dropped by a quarter, from 5,031 to 3,890. The number of commercial fishing licenses issued by DMF has declined every year, as have commercial licenses for specific fisheries and fish dealer licenses. The decline in commercial fish landings has been even more precipitous. In 2006, commercial fishermen caught a little over 68 million pounds of seafood, which was the lowest catch on record, and approximately half of what was caught just two years earlier and one-third of what was caught a decade earlier.

This amazing decline in commercial fishing has been prompted by a number of factors. First, competition from cheap imports has led to lower market prices and shrinking profits. Second, the increasing cost of fuel and other supplies has further constrained profits. Third, declining catches can be attributed to declining fish stocks. In 2006, DMF reported that out of 40 important coastal fisheries stocks, the status of 15 was either “concern” or “overfished,” and

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8 Id. at 3.
9 Id. at 14.
12 Id. at II-6 – II-7.
14 Id.
the status of another 7 was “unknown.” Fourth, increased coastal development has had direct negative effects on fisheries as a result of runoff and pollution. Fifth, tight quotas and strict regulations dictate how fishermen can operate and what they can catch, leading to increased effort and reduced profits. Sixth, reduced profits translate to shrinking wages for fishermen, such that in many counties, fishermen earn less than the average worker’s wage. For example, in Carteret County, fishermen earned approximately 83% of the average annual county wage in 2006. Finally, shrinking profits and wages have discouraged young fishermen from joining the commercial industry, leading to a scarcity of labor and further weakening of the industry.

Declines in the catch and profits of the fishing industry also have caused a decline in associated businesses. The range of businesses associated with fishing stretches from primarily commercial endeavors, such as boat building and seafood marketing, to largely recreational endeavors, such as tourism, festivals, and tournaments. North Carolina has seen a loss in boat building facilities, commercial fuel docks, marine railways, and deep-water transit dockage, and such facilities continue to be at risk.

One notable indicator of the dire conditions for commercial fishing has been the loss of fish houses. Fish houses are responsible for the wholesale buying and selling of finfish and shellfish, and fishermen also rely on them for dockage, ice, loans, and market connections. In many ways, fish houses can serve as indicators of the health of the entire fishing industry,

16 GARRITY-BLAKE & NASH, supra note 13, at 6; WASC FINAL REPORT, supra note 1, at 15.
17 Id.
18 Id.
19 Houston, supra note 10.
20 Id.
22 Id.
23 Id.
because they are so tightly connected with the industry’s functioning. A 2006 survey found that there had been a 30% decline in the number of fish houses in North Carolina in just five years, from 136 houses in 2001 to 41 in 2006, indicating a serious problem for commercial fishing.24

In addition to the decline of the commercial fishing industry, coastal development has driven an overall loss of diversity of uses along the coast. North Carolina has long recognized the public trust doctrine, which holds that the state’s waters belong to all people of North Carolina, and the state is responsible for ensuring that these waters are open and available to the people.25 The North Carolina Constitution recognizes this important state function, and establishes the government’s role “to conserve and protect its lands and waters for the benefit of all its citizenry.”26 However, privatization has led to significant loss in the number of traditional public access points to state waterways.27 The loss of public access to harbors, beaches, estuarine and ocean waters, and inlets28 severely curtails the public’s ability to enjoy the traditional uses of waterways, including fishing, swimming, boating, and commerce, which are protected by the public trust doctrine.29 The overall loss of diverse coastal uses and the shift to homogeneous residential and commercial establishments signifies a dramatic change and presents a potential cause for concern for people throughout North Carolina.

Concern over the loss of commercial fishing and public access persuaded the state government to intervene and address the impacts of the coastal development boom through the work of the Waterfront Access Study Committee (WASC). Initially, the state’s primary

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24 Id.
26 N.C. Const. art. XIV, § 5. See also NORTH CAROLINA MARINE FISHERIES COMMISSION RESOLUTION, supra note 21.
27 WASC FINAL REPORT, supra note 1, at 7.
28 NORTH CAROLINA COASTAL RESOURCES COMMISSION RESOLUTION, supra note 25.
concerns focused on economic, cultural, and historical factors. For example, North Carolina maritime scholars stressed the importance of protecting the cultural, historical, and economic value of the fishing industry, and allowing for adaptation, while protecting the cultural integrity and character of fishing communities.\textsuperscript{30} The N.C. Coastal Resources Commission raised concern about the reduction in commercial and recreational fisheries infrastructure, as well as the loss of public access to state waterways.\textsuperscript{31} The N.C. Marine Fisheries Commission echoed these concerns and urged the state to find ways to protect public access and the character of eastern North Carolina for the “benefit and enjoyment of all the people of North Carolina.”\textsuperscript{32}

While early concern over the changing character of the coast focused on economics and culture, inherent in the changing coastal uses was the potential for environmental impacts and environmental opportunities. As the state proceeded, environmental issues became explicit. The committees involved in the working waterways initiative were forced to address environmental issues and determine how they could be incorporated into a working waterways program.

This paper examines North Carolina’s working waterways and public access crisis from an environmental perspective. The purpose of the paper is to summarize and evaluate the state’s response to the crisis and to make recommendations to Environmental Defense Fund about whether the organization should pursue more active involvement and influence in the state’s programs. First, the paper summarizes and evaluates the work of the WASC, focusing on environmental issues raised during the Committee’s eight months of work. Second, it examines the Committee’s conclusions and the state’s legislative response, as well as opportunities for Environmental Defense Fund to be involved in the state program. Third, the paper discusses the

\textsuperscript{31} NORTH CAROLINA COASTAL RESOURCES COMMISSION RESOLUTION, supra note 25.
\textsuperscript{32} NORTH CAROLINA MARINE FISHERIES COMMISSION RESOLUTION, supra note 21.
ongoing process of identifying appropriate working waterways projects to receive state support and funding through the Waterfront Access and Marine Industry Fund. Fourth, this paper provides recommendations about whether the environmental issues and opportunities arising from state working waterways action are strong enough to warrant Environmental Defense Fund committing resources and effort to become directly involved in working waterfront preservation initiatives and projects. Finally, it discusses additional opportunities for Environmental Defense Fund to pursue environmental improvements while preserving working waterways and public access.

**Methods**

Three primary research methods were used to gather information and evaluate North Carolina’s working waterways program. First, a thorough and diverse literature search was conducted. This research provided background information about working waterways and their decline, assessments of working waterways programs in other states, specific case studies, identification of environmental issues associated with working waterways programs, and potential opportunities to address environmental concerns through working waterways projects. In addition, the literature review provided extensive information about the entire working waterways initiative in North Carolina through background documents relied on by the committees, government resolutions, state legislation regarding working waterways, public comments, committee members’ comments, transcripts of committee meetings, and committee reports.

The literature search primarily relied on four categories of sources. The first category was newspapers and magazines, which were used to understand the problem in North Carolina,
and to identify stakeholders’ concerns, policy measures and projects already in place and being proposed, and thoughts and opinions of all interested parties. Second was journals, which provided scholarly descriptions of the underlying issues and problems. Third was state government websites, which provided information about the actions of the General Assembly and state agencies, including any measures related to working waterfronts. The fourth category was websites of interested organizations, including environmental organizations and trade organizations for fishermen and marine-related businesses, which provided the goals and interests of important stakeholder groups, as well as those groups’ responses to state actions.

The second research method was a series of interviews with members of the WASC. The goals of these interviews were to gain more thorough and specific insight into the environmental issues that the Committee discussed, to better understand the Committee’s role in defining the criteria for working waterfronts projects, and to learn the Committee members’ personal opinions about the appropriate priority of environmental goals in working waterfronts projects. The Duke University Institutional Review Board approved the interviews, including the project outline, informed consent, and interview questions. The informed consent is attached as Appendix A, and the interview questions are attached as Appendix B.

Current contact information was available for nineteen of the twenty-one members of the Committee. These nineteen members were contacted via an e-mail, which included the informed consent and the interview questions. A follow-up e-mail was sent to members who did not respond to the first e-mail. Ultimately, seven of nineteen Committee members responded, for a response rate of thirty-seven percent. The manner of responses varied, with some respondents answering all questions and others not, and with some respondents communicating via e-mail and others via phone. While the response rate was relatively low, the diversity of the
respondents was high. Respondents represented a broad range of professions and interests, including a scientist representing academia (Michael Voiland), a real estate developer and broker (Buddy Milliken), a commercial fisherman (Hardy Plyler), an economist (Doug Wakeman), a state senator’s office (Charles Albertson), and two representatives of state commissions (Mac Currin – N.C. Marine Fisheries Commission, Gordon Myers – N.C. Wildlife Resources Commission).

The third research method employed was attendance at public meetings of the WASC, the General Assembly Joint Legislative Commission on Seafood and Aquaculture, and the Citizens Advisory Committee to the Waterfront Access and Marine Industry Fund (WAMI). The WASC meeting was held on January 31, 2007 at Carteret Community College in Morehead City. The meeting included a presentation by Michael Voiland about the Committee’s activities and major areas of study, followed by a public comment period, open to statements and questions from all members of the audience. The Joint Legislative Commission on Seafood and Aquaculture meeting was held on April 23, 2007 at the Legislative Office Building in Raleigh. This meeting featured a final report on the activities of the WASC, including the presentation of the final report to the Commission, comments from WASC Chair Michael Voiland, and questions and comments from members of the Commission. The Citizens Advisory Committee meeting was held on March 3, 2008 at the Crystal Coast Civic Center in Morehead City. The meeting included GIS mapping and project presentations of proposed WAMI projects, as well as an update on WAMI decisions, and discussion from committee members. These meetings provided opportunities to see the respective committees at work, to assess the relative priority of environmental issues at these meetings, and to listen to the specific interests and concerns of
committee members. As such, they provided useful first-hand observations to supplement information gathered through literature and interviews.

**Waterfront Access Study Committee (WASC)**

*Creation*

The dramatic changes in the commercial fishing industry and coastal communities raised alarms throughout North Carolina. Calls for action came from various voices in the state, including the N.C. Marine Fisheries Commission, the N.C. Coastal Resources Commission, maritime scholars, and numerous newspaper articles and editorials in coastal dailies and weeklies and Raleigh’s *The News and Observer.*\(^3\) The issue reached the General Assembly, and the General Assembly’s Joint Legislative Commission on Seafood and Aquaculture introduced a bill to create a study committee on the issue.\(^4\) The General Assembly responded to this request, and on July 27, 2006, it passed legislation, which was signed into law on August 16, 2006, that established the WASC.\(^5\)

The new legislation called on the WASC to “study the degree of loss and potential loss of the diversity of uses along the coastal shoreline of North Carolina and how these losses impact access to the public trust waters of the state.”\(^6\) The WASC’s first task was to collect information about the problem by learning about “local land-use management and zoning, current shoreline development trends, and local tax rates, including tax assessment trends for shoreline properties.”\(^7\) In addition to researching the problem, WASC was tasked with researching potential solutions, including “incentive-based techniques and management tools

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\(^3\) *WASC Final Report, supra* note 1, at 7.

\(^4\) *Id.*


\(^6\) *Id.* § 45.3.

\(^7\) *Id.* § 45.3(1).
used to preserve waterfront diversity.” \[^{38} \] Upon completion of the background research, the WASC would then “[a]ssess the applicability of such tools and techniques to the coastal shorelines of North Carolina.” \[^{39} \] In addition to laying out these tasks, the legislation established the 21-person membership of the WASC, required the WASC to hold three public meetings, and set dates for the Committee to deliver interim (January 15, 2007) and final (April 15, 2007) reports to the General Assembly. \[^{40} \]

**Process**

The WASC had an extremely tight timetable to carry out all of its work and deliver a final report by April 15, 2007. While the establishing legislation was signed into law on August 16, 2006, some time was required to fill all of the roles on the committee. As a result, the WASC’s first meeting was held on September 26, 2006. \[^{41} \] The Committee conducted three initial business meetings (September 26, 2006, November 20, 2006, and January 9, 2007), during which it held in-depth discussions on key terms and potential recommendations, and it heard presentations by scholars from the North Carolina Coastal Resources Law, Planning, and Policy Center, by state natural and coastal resource agency officials from North Carolina and other states, and by members of the Committee. \[^{42} \] Based on information gathered during these meetings, the Committee released an interim progress report on January 18, 2007. \[^{43} \]

Following the release of the interim report, and in accordance with its establishing legislation, the WASC held three public comment sessions: January 30, 2007 in Manteo; January

\[^{38} \] Id. § 45.3(2).

\[^{39} \] Id. § 45.3(3).

\[^{40} \] Id. §§ 45.2, 45.3(5), 45.5. For a complete list of N.C. WASC members, see Appendix C.

\[^{41} \] WASC FINAL REPORT, supra note 1, at 10.

\[^{42} \] Id. at 10-11.

\[^{43} \] Id. at 11.
31, 2007 in Morehead City; and February 1, 2007 in Wilmington. These meetings included presentations regarding the WASC interim report, followed by opportunities for those present to offer comments and questions to the committee. The public meetings drew strong participation, with more than 275 people present at the three meetings, and with 68 offering formal statements to the Committee. The meeting in Morehead City on January 31 alone drew more than 150 people, including 31 attendees who presented comments in front of the Committee and others who observed the proceedings. Public comments came from a broad spectrum of citizens, with a myriad of interests, including commercial and recreational fishermen, owners of coastal businesses (marinas, fishing piers, boat building), realtors and developers, boaters and kayakers, state and local government representatives, members of community organizations, and average citizens who were concerned with their ability to cheaply and easily enjoy North Carolina’s waterways. In summarizing the comments received by the WASC, Committee Chair Michael Voiland found that “[t]he public statements not only validated most of our thinking to date, but also alerted us to a few aspects that had not been raised in the committee meetings.”

The WASC reviewed all of the public comments it received, and it held one final business meeting on February 27, 2007 to discuss the comments and potential changes to the interim report. This business meeting was the final official WASC meeting, but Committee members continued to work on finalizing the report throughout March. Finally, after just seven months of work, the WASC submitted the Waterfront Access Study Committee Final Report to

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44 Id.
45 Id.
46 Id.
47 Attendance at public meeting of the N.C. WASC, in Morehead City, NC (Jan. 31, 2007).
48 See Katie Mosher, Waterfront Access: Meetings Highlight Spectrum of Need, COASTWATCH, Spring 2006, at 6-10.
49 Id. at 6.
50 WASC FINAL REPORT, supra note 1, at 11.
the N.C. Joint Legislative Commission on Seafood and Aquaculture, the N.C. Marine Fisheries Commission, and the N.C. Coastal Resources Commission on April 13, 2007. The WASC’s work was officially completed on April 23, 2007, when WASC Chair Michael Voiland presented the final report at a meeting of the N.C. Joint Legislative Commission on Seafood and Aquaculture.

**Environmental Issues Identified During the WASC Process**

The task of preserving working waterfronts and public access raised numerous economic and social issues that the WASC was forced to face, but it also raised some environmental questions, and the Committee had to decide how to handle these issues. Addressing environmental issues was not a specific goal of the Committee, but these issues arose indirectly in many of the Committee’s discussions. The WASC realized that cultural, historical, economic, and environmental goals were all important considerations in reaching the Committee’s primary goals. Early on, resource protection and environmental stewardship became important topics of discussion for the Committee and led to valuable debate. Much of this discussion centered on the effects of environmental regulations, and how more stringent environmental regulations could raise the costs of, and possibly dampen, working waterfront enhancement.

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51 Id. at 1.
52 Attendance at meeting of the N.C. Joint Legislative Commission on Seafood and Aquaculture, in Raleigh, NC (Apr. 23, 2007).
53 Interview with Mac Currin, Member, N.C. WASC, Chair, N.C. Marine Fisheries Commission (Feb. 21, 2008).
54 Interview with Buddy Milliken, Member, N.C. WASC, Owner, The Milliken Company (Feb. 25, 2008).
55 Interview with Gordon Myers, Member, N.C. WASC, Deputy Director, N.C. Wildlife Resources Commission (Feb. 21, 2008).
56 Interview with Michael Voiland, Chair, N.C. WASC, Director, N.C. Sea Grant (Feb. 21, 2008).
The Committee realized that it would be important to align any environmental goals with appropriate economic incentives in order to achieve both environmental and economic success. Part of aligning these goals meant that additional burdensome regulations should not be added, because this might lead to greater economic harm for working waterfronts. At the same time, however, the state already had numerous environmental regulations in place that affected waterfronts, and some Committee members and members of the public advocated for weakening current regulations as a way to enhance working waterfronts.

Ultimately, the WASC asserted that state environmental and water quality protective standards should not be compromised to resolve waterfront access issues. In addition, the Committee further asserted that the standards should be clearly promulgated and articulated and taken into account in any actions taken pursuant to the WASC’s work. All working waterfronts projects, therefore, should be wholly compliant with all state environmental laws and regulations. These decisions established a middle ground for the WASC, whereby the Committee did not propose new regulations, but it also did not recommend weakening current regulations. In the end, none of the Committee’s 27 recommendations in its final report included direct recommendations about changes to environmental regulations. Thus, environmental considerations were an important part of the Committee’s work, but they remained primarily implicit in the final recommendations.

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57 Interview with Buddy Milliken, supra note 54.
58 Interview with Hardy Plyler, Member, N.C. WASC, Commercial Fisherman (Feb. 23, 2008).
59 Attendance at public meeting of the N.C. WASC, in Morehead City, NC (Jan. 31, 2007).
60 Interview with Gordon Myers, supra note 55.
61 Id.
62 Interview with Michael Voiland, supra note 56.
63 See WASC FINAL REPORT, supra note 1, at 3-6.
The most contentious environmental issue that the Committee dealt with, and the one that generated the most discussion, was stormwater runoff regulation.\(^6^4\) In particular, some Committee members and members of the public were concerned about the implementation of new Federal Phase II Stormwater Management Requirements,\(^6^5\) which were passed by the General Assembly and were intended to protect water quality throughout the state.\(^6^6\) The concern was that these new stormwater regulations would have unintended and negative impacts on the diversity of uses on the waterfront.\(^6^7\) In particular, the Carteret County Board of Commissioners attempted to influence the WASC by passing a resolution to express its concern about potential negative impacts of the stormwater runoff regulations and to encourage the WASC to recommend that the General Assembly change the regulations to lessen their potential negative impact on waterfront diversity.\(^6^8\) The stormwater regulations were discussed extensively during the WASC meeting on February 27,\(^6^9\) but ultimately, in line with its decision not to compromise water quality standards to resolve waterfront access issues, the Committee chose not to recommend that the General Assembly make changes to the phase II stormwater regulations.\(^7^0\)

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\(^6^4\) Interview with Michael Voiland, *supra* note 56; Interview with Mac Currin, *supra* note 53.
\(^6^7\) *Id.*
\(^7^0\) See *WASC FINAL REPORT*, *supra* note 1, at 3-6.
In addition to the phase II stormwater regulations in particular, the WASC also discussed water quality in general. The Committee worked to decide how water quality should be prioritized along with economic and social concerns.\textsuperscript{71} The WASC decided that water quality should be put on an equal footing with economic concerns, and that water quality should not be compromised.\textsuperscript{72} North Carolina has extensive water quality standards and classifications, both for freshwater and saltwater,\textsuperscript{73} and the WASC decided that these standards should not be changed to allow looser standards for particular waterfront businesses.\textsuperscript{74} As a result, the WASC did not recommend any changes to the state’s water quality standards or classifications.\textsuperscript{75} The WASC’s decision not to compromise water quality for waterfront access also impacted the WAMI’s guidelines and decisions, leading the WAMI to recommend against funding projects that significantly affect water bodies with outstanding water quality or primary nursery areas (see Current Status of Working Waterfront and Public Access Program below).

One topic that was notably absent from the WASC’s discussions, considering the Committee was addressing working waterfronts and commercial and recreational fishing issues, was discussion of fish stocks. In fact, effects on fish stocks were discussed very little during the WASC process.\textsuperscript{76} Monitoring and management of fish stocks are handled by the Marine Fisheries Commission and the Division of Marine Fisheries,\textsuperscript{77} and therefore these issues did not fall within the topics to be addressed by the WASC.\textsuperscript{78} The only fisheries issues that were

\textsuperscript{71} Interview with Buddy Milliken, \textit{supra} note 54.
\textsuperscript{72} Interview with Gordon Myers, \textit{supra} note 55.
\textsuperscript{73} See N.C. Department of Environment and Natural Resources, Division of Water Quality, Surface Water Classifications, http://h2o.enr.state.nc.us/csu/swc.html (last visited Apr. 22, 2008).
\textsuperscript{74} Interview with Buddy Milliken, \textit{supra} note 54; Interview with Gordon Myers, \textit{supra} note 55.
\textsuperscript{75} See \textit{WASC FINAL REPORT}, \textit{supra} note 1, at 3-6.
\textsuperscript{76} Interview with Buddy Milliken, \textit{supra} note 54.
\textsuperscript{77} See generally N.C. Department of Natural Resources, Division of Marine Fisheries, http://www.ncfisheries.net (last visited Apr. 22, 2008).
\textsuperscript{78} Interview with Hardy Plyler, \textit{supra} note 58.
discussed by the WASC were related to supporting commercial fishermen, therefore these short discussions focused on the human, rather than the environmental, element of the working waterfronts issue.

**Recommendations**

Perhaps the most difficult part of the WASC’s work was defining “working waterfronts” and “waterfront access” and finding ways to address the overlapping, and sometimes clashing, goals of enhancing these two waterfront uses. The WASC establishing legislation gave the Committee a broad mandate to make recommendations about preserving waterfront diversity, but the General Assembly was actually concerned about two related, but distinct problems – the loss of public access to the waterfront for recreational purposes and the loss of waterfront property that supports the commercial fishing industry. The legislation provided no guidance about how these two uses should be prioritized, and the WASC recognized that when the time might come to allocate limited resources, tension could arise between these uses.

The WASC spent significant time during its first three meetings developing definitions that appropriately encompassed these two categories. As late as the release of the interim report on January 18, 2007, the Committee was attempting to develop one definition of waterfront access that would include working waterfronts and public access uses. Ultimately, the Committee defined “waterfront access” broadly to include “water-dependent commercial and/or recreational activities.” In addition, though, the final report included more specific

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79 Id.
80 Id., supra note 1, at 15.
81 Id. at 13.
83 Id., supra note 1, at 13.
definitions of “working waterfronts” and “public waterfront access facilities” as a way to
distinguish the two waterfront uses for targeted recommendations. These definitions, and the
process of reaching them, illuminate the many waterfront uses that are threatened by coastal
development and the difficult task that the WASC was given in trying to address all of these uses
at once.

The WASC’s final report included 27 recommendations, organized into 11 major
categories. The first two recommendation categories addressed the heart of the Committee’s
mandate by providing 3 recommendations for retaining and enhancing working waterfronts and 8
recommendations for enhancing public access to coastal waters. These categories included the
most direct and practical recommendations for meeting the state’s preservation and enhancement
goals.

The WASC’s primary suggestions for supporting working waterfronts were to “extend
eligibility of present use value taxation to working waterfront properties” and to establish “a
working waterfronts trust fund, . . . , to assist in the retention and enhancement of working
waterfront land uses along coastal public trust waters of the State.” These recommendations
called on the General Assembly to actively pursue new measures to preserve working
waterfronts. On the other hand, the WASC’s recommendations for public access focused
primarily on enhancing current state programs, especially through increased funding and
adjusted program priorities. For example, the Committee recommended significantly increasing
funding for the N.C. Wildlife Resources Commission’s (WRC) Boating Infrastructure Program
and the N.C. Division of Coastal Management (DCM) Public Beach and Coastal Waterfront

84 Id.
85 Id. at 3-6.
86 Id. at 16-18.
access program. In addition, the WASC recommended that the N.C. Department of Transportation (DOT), the N.C. Division of Water Resources’ Water Resource Development Project Grants Program, and the N.C. Clean Water Management Trust Fund each elevate public access as a priority for waterfront projects that they fund or develop. The Committee also endorsed efforts by the DMF and the WRC to allocate a share of the revenue from the Coastal Recreational Fishing License to public coastal fishing access enhancements.

The 9 additional categories of recommendations addressed more specific topics raised during the WASC meetings and provided more indirect and long-term approaches to preserving a diversity of uses along the coast. The categories included: planning and zoning approaches to waterfront and access issues; purchase or transfer of development rights; fishing piers; fees for public trust submerged lands and easements; meeting environmental compliance costs; the need for a comprehensive socioeconomic study; cooperative state-local partnerships and approaches; educational outreach; and further study and oversight. The majority of the recommendations in these categories called on the General Assembly to look into future programs that could expand the potential water access preservation that would be begun through present use value taxation, a working waterfronts trust fund, and increased funding and prioritization of coastal access programs.

**General Assembly Responses to WASC Recommendations**

The Joint Legislative Commission on Seafood and Aquaculture accepted the WASC’s final report and recommendations, and it passed on the recommendations to the General Assembly.

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87 Id. at 18, 19.
88 Id. at 19, 20.
89 Id. at 20.
90 Id. at 4-6.
Assembly. The General Assembly responded positively by passing two new pieces of legislation that follow the WASC’s recommendations, particularly in relation to working waterfronts. First, the General Assembly passed Senate Bill 646 which established present use value taxation for working waterfront properties and established an advisory committee for the coordination of waterfront access.\(^9\) Second, the Assembly included provisions in the 2007 budget appropriations bill to establish a $20 million Waterfront Access and Marine Industry Fund to be used for chosen waterfront access projects.\(^9\) Other recommendations of the WASC, including increased funding for specific state programs, remain unfulfilled, though the General Assembly could choose to pursue additional measures during the 2008 session, which focuses on the state budget, or through future actions. The two 2007 measures provide a strong starting point for waterfront access preservation, and they could serve as litmus tests for the potential of such programs to succeed. In particular, the WAMI opens the door for additional funding and additional creativity in the future.

**Present Use Value Taxation**

The primary policy change initiated by Senate Bill 646 (S.646) was the establishment of present use value (PUV) taxation of working waterfront property.\(^9\) PUV taxation was the first recommendation of the WASC final report, and the General Assembly established it precisely as described by the WASC.\(^9\) PUV taxation supports working waterfronts by reducing the ever-increasing tax burden on waterfront property, thereby allowing working waterfront owners to continue to afford to operate a business on the water.

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\(^9\) See WASC FINAL REPORT, supra note 1, at 16-17.
The general taxation method in North Carolina is to tax a property based on its “true value,” or its “fair market value,” which is the price at which a willing and financially able buyer and a willing seller would make a transaction for the property.95 Because the value of a property is based on what a buyer would be willing to pay it, its fair market value is based on the highest and best use of the property, or the use that would generate the highest property value.

The problem with fair market valuation is that outside forces and increased demand can raise the assessed value, and therefore the tax basis, of property, even without a change in land use.96 Based on this valuation method, the current use of a property might not be the highest and best use according to the market, and therefore property taxes may be disproportionately high based on the current use. This disconnect between land use and valuation is prevalent along the coast.97 Land developers are willing to pay higher prices for waterfront property, which drives up the assessed value, so that the traditional waterfront owner is forced to pay higher taxes on the property, even though the use of the land has not changed.98 As waterfront property in North Carolina has become more attractive to developers, the highest and best use of the property has shifted from fishing-associated businesses to development, and property values have soared in response to the demand. At the same time, income for individuals operating fishing-related businesses or providing public services has not increased significantly. This means that these individuals are faced with property taxes that have increased significantly, and they are not generating the income to afford these taxes. Eventually, these economic pressures can force

97 Id.
98 Id.
people to close their businesses and sell their properties for non-waterfront-dependent
development because they cannot even afford the taxes to stay there.99

The idea behind PUV taxation is to tax property at its current use, rather than its highest
and best use, so that the taxes are proportionate to the use of the property, and not what it could
be worth as a commercial development.100 This gives people the freedom to continue to pursue
their current businesses without fear of being forced out by enormous taxes. Along the
waterfront this means that businesses such as fish houses and marinas, which are dependent on
waterfront property but are not the most valuable use of that property, can continue to operate
and provide necessary services. PUV taxation gives working waterfronts a chance to survive if
the property owners want to continue the current use of the property, and therefore it “would
help preserve this important economic, cultural, and social resource.”101

North Carolina already had PUV taxation in place for certain categories of agricultural
land-use.102 In 1973, North Carolina enacted a deferred taxation method for PUV taxation.103
Under a deferred taxation system, “the difference between the taxes due on the present use basis
and the taxes that would have been paid in the absence of the present use basis . . . are treated as
a lien on the property,” and “the taxes become due and payable when the land no longer meets
any of the conditions or requirements of the present use classification.”104 The General
Assembly originally limited PUV taxation to three categories of land-use: agricultural,
horticultural, and forestry lands.105 In 1975, the General Assembly amended the statute to allow

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99 WASC FINAL REPORT, supra note 1, at 17.
100 ZAJAC, supra note 96, at 10-11, citing Elisa Paster, Preservation of Agricultural Lands Through Land Use
101 WASC FINAL REPORT, supra note 1, at 16-17.
102 ZAJAC, supra note 96, at 12.
104 WASC FINAL REPORT, supra note 1, at 16.
a narrow category of family run corporations to qualify for the tax break, but the qualifying land-
uses had not changed since the 1970s.\footnote{N.C. Gen. Stat. § 105-277.2 (1975).}

The WASC examined the potential for the use of PUV taxation of working waterfronts in
North Carolina. In addition to the North Carolina system already in place, the WASC also
working waterfronts, and voters passed a constitutional amendment to authorize current use
taxation of waterfront land.\footnote{WASC FINAL REPORT, supra note 1, at 16. See also Coastal Enterprises, Inc., Press Releases for Working Waterfront Coalition (Nov. 29, 2005), available at http://www.ceimaine.org/content/view/149/222.} Based on the success of PUV taxation in Maine, and because
North Carolina already had experience with PUV taxation, the WASC concluded that it would
not be very difficult to administer an additional category, with appropriately defined
characteristics for working waterfronts, and that PUV taxation could be a successful policy tool
for preserving working waterfronts.\footnote{WASC FINAL REPORT, supra note 1, at 17.}

Senate Bill 646 essentially applies the agricultural PUV taxation scheme to working
waterfronts. The statute defines working waterfront property to include private fishing piers and
waterfront property that is primarily used for a commercial fishing operation or fish processing,
and the property must have produced an average gross income of at least $1,000 a year for the
previous three years.\footnote{N.C. Gen. Stat. § 105-277.14(a)(4) (2007).} An owner of such property can apply for working waterfront
classification by submitting an application to the appropriate county tax assessor, and the
 assessor can approve the classification.\footnote{N.C. Gen. Stat. § 105-277.14(d) (2007).} If the property meets the requirements, it is designated
as “a special class of property under Section 2(2) of Article V of the North Carolina

Constitution,” and the property is appraised, assessed, and taxed on the basis of its value in its present use, rather than its true value.\textsuperscript{112} As with PUV taxation of agricultural land, the additional taxes are deferred and become due when the property no longer qualifies as working waterfront property.\textsuperscript{113}

While PUV taxation is a relatively simple and useful tool for supporting present working waterfronts, it has little direct impact on the environment and does not provide obvious environmental benefits or opportunities. As written, S.646 does not include any provisions for taking into account environmental impacts of property use. Two potential ways to include environmental considerations would be to add environmental regulations for property to qualify for PUV taxation or to allow for further tax breaks for properties that meet specific regulations. However, both of these options would be inappropriate. PUV taxation is intended to reduce the tax burden for waterfront owners, and additional environmental requirements might increase the cost for a property to qualify for this tax reduction. Regulations can increase the operating costs for working waterfronts, leading to reduced profits, and thus these costs could outweigh the benefits that PUV taxation could provide.\textsuperscript{114} As for additional tax reductions, those could be met through separate legislation, and they do not need to be part of the PUV taxation system. PUV taxation is a great tool for preserving working waterfronts, but it does not provide many opportunities for pursuing additional environmental opportunities. Environmental Defense Fund should not expend effort pursuing environmental opportunities through the working waterfronts PUV taxation program.

\textsuperscript{114} Interview with Hardy Plyler, \textit{supra} note 58.
Advisory Committee for the Coordination of Waterfront Access (646 Committee)

The second significant provision of S.646 was the creation of the Advisory Committee for the Coordination of Waterfront Access (the “646 Committee”). The 646 Committee was established within the N.C. Department of Environment and Natural Resources (DENR), and it consists of 10 members: the Secretary of DENR; the Directors of the DENR Divisions of Coastal Management, Parks and Recreation, Marine Fisheries, and Aquariums; the Executive Director of the Wildlife Resources Commission; the Executive Director of N.C. Sea Grant; a representative of the State Property Office; and two local government representatives, one each appointed by the N.C. League of Municipalities and the N.C. Association of County Commissioners. The Committee is responsible for performing its assigned tasks and providing annual reports to the Joint Legislative Commission on Seafood and Aquaculture by October 1 of each year, with the first report due on October 1, 2008.115

Senate Bill 646 gives the Committee a very broad mandate and little guidance. The 646 Committee is charged with developing “a coordinated plan for providing greater waterfront access in the State” and developing “recommendations for increasing and improving waterfront access in the State.”117 The only guidance the statute provides is that the Committee must “address geographic diversity of waterfront access, diversity of types of waterfront access, and funding for waterfront access.”118 The language of the statute gives the 646 Committee a great deal of flexibility, however, it does not have a clear charge about what it can and should do to address the General Assembly’s concerns. One task that the Committee has taken on is oversight of the WAMI process (see Waterfront Access and Marine Industry Fund (WAMI) below), which

116 Id. at § 2.3.
117 Id. at § 2.2 (2007).
118 Id.
is a significant undertaking, and additional roles of the Committee will develop throughout the year leading up to October 1, as needs arise.

The creation of a committee to carry on the work of the WASC was proposed by the WASC itself. The WASC’s twenty-seventh and final recommendation was that the General Assembly create a joint legislative commission to continue the work of the WASC and to guide any programs or actions implemented by the General Assembly. The WASC envisioned this commission taking on unresolved WASC discussion and debate and continuing to pursue ways to improve waterfront access. However, the WASC did not include further ideas about specific tasks for this new commission, instead leaving that role to the General Assembly. Without guidance from the WASC or the General Assembly, the 646 Committee is left relatively free to create a statewide plan and develop recommendations it believes are necessary for waterfront access.

Neither the WASC Final Report nor S.646 directly discuss environmental issues in relation to this new Committee. As discussed above, environmental concerns were implicit in many of the WASC discussions and recommendations, and therefore a committee established to continue the WASC’s work should keep environmental issues as a priority, though an implicit one. Senate Bill 646 defines only three specific areas that the 646 Committee must address (geographic diversity, diversity of types, and funding), and it provides no mention of environmental impacts as a specific topic of concern for the Committee. However, consideration of environmental issues should be implicit in the Committee’s work. In addition, with the inclusion of numerous DENR members on the Committee, it would be virtually impossible for

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119 WASC FINAL REPORT, supra note 1, at 36.
120 Id.
the Committee not to take environmental impacts into account when developing a plan and recommendations.

Since the Committee has not been charged with addressing environmental concerns specifically, it is not the best forum for promoting new environmental regulations or protections. Instead, it can provide oversight of working waterfronts programs and projects to ensure that they comply with state environmental regulations. This is the role that the Committee has adopted thus far in considering WAMI projects (see Current Status of Working Waterfront and Public Access Preservation Measures below). The Committee can serve a central role in promoting working waterfronts without compromising environmental protection, and as such, it can provide the kind of oversight that Environmental Defense Fund would have wanted to perform itself. With the 646 Committee in place, Environmental Defense Fund does not need to expend significant effort monitoring the working waterfronts program, though it can expend some effort to monitor the Committee.

Waterfront Access and Marine Industry Fund (WAMI)

In addition to S.646, the General Assembly passed a budget appropriation bill that established a new fund for working waterfronts. The creation of a working waterfronts trust fund was the second recommendation from the WASC, and it was the first action that the General Assembly took, passing the appropriations bill on July 28, 2007. The WASC proposed a fund that could be used to provide financial grants to purchase waterfront properties or to purchase development rights or easements. The Committee emphasized that chosen projects should provide for the permanent use of waterfront property for waterfront-dependent businesses, and

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122 WASC Final Report, supra note 1, at 17.
provisions should be included to ensure that the property remains securely and permanently as a working waterfront.\textsuperscript{123}

As a template for the type of fund they envisioned, the WASC relied on a working waterfronts fund in Maine called the Working Waterfront Access Pilot Program (WWAPP).\textsuperscript{124} In 2005, Maine voters approved a $12 million bond measure which included $2 million to be used to invest in significantly important working waterfronts along the Maine coast.\textsuperscript{125} The Maine Department of Marine Resources (DMR) and the Land for Maine’s Future program provided the funds to purchase properties that provide access to and support commercial fisheries activities, and the DMR contracted with Coastal Enterprises, Inc. to administer the program.\textsuperscript{126} The Maine program focused entirely on preserving commercial fisheries properties, and the DMR developed five criteria to identify appropriate projects.\textsuperscript{127} The program looked for projects that were significant, active working waterfronts that provided key access for a region and that were under threat from development.\textsuperscript{128} The funds were available to private businesses, cooperatives, municipalities, or any other qualified organizations, and they were awarded through a competitive application process that took into account DMR’s criteria.\textsuperscript{129} The first round of WWAPP awards were allocated on January 16, 2007 to six projects, including two property purchases, the purchase of a right of way for clamming, the purchase of a pier, the renovation of a pier, and the purchase of a shellfish facility.\textsuperscript{130} Applications for additional

\textsuperscript{123} \textit{Id.}
\textsuperscript{124} \textit{Id.}
\textsuperscript{125} Coastal Enterprises, Inc., \textit{supra} note 108.
\textsuperscript{127} \textit{Id.}
\textsuperscript{128} \textit{Id.}
\textsuperscript{129} \textit{Id.}
projects were accepted through May 2007, and all projects had to be completed by summer 2008. The WASC was impressed by the Maine program, and recommended that the General Assembly use it as a model for a similar North Carolina program with funding of $10 million a year for five years.

The new fund created by the N.C. General Assembly was named the Waterfront Access and Marine Industry Fund (WAMI), and it received an initial allocation of $20 million. This money was to be used to purchase waterfront property or develop facilities to provide, improve, and develop public and commercial waterfront access. The legislation provided no further guidance about how appropriate properties and facilities should be identified, nor what factors to consider in identifying appropriate funding targets. This funding was significantly larger than Maine’s working waterfronts program, however, unlike Maine’s program, the WAMI was established to support both the commercial fishing industry and public waterfront access.

Control of the $20 million WAMI was given to the Director of the Division of Marine Fisheries. The DMF Director was responsible for developing a program to determine how the WAMI money would be used. The Director was given the discretion to consult with representatives of the commercial fishing industry and other marine industries, and with State, local, or nonprofit agencies with expertise in waterfront access issues and property acquisitions, and to establish a committee to review potential property purchases and WAMI projects. Prior to the expenditure of any funds, however, the DMF Director must report to the Joint Legislative

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132 WASC FINAL REPORT, supra note 1, at 17.
134 Id.
135 Id. at § 29.14(e).
136 Id.
137 Id.
Committee on Seafood and Aquaculture, which has the final say about how the money will be spent.\textsuperscript{138}

The current DMF Director, Louis Daniel, took charge of the WAMI and adopted a strategic plan on which to base funding decisions.\textsuperscript{139} The plan identifies four general program areas for funding: public docking facilities, public boat ramps, fishing access, and other marine industry facilities.\textsuperscript{140} Special consideration will be given to projects that involve partnerships with local governments or other state agencies and to projects in areas where access has been lost.\textsuperscript{141} In addition, the DMF declared that “funding priority will be given to multi-use facilities that incorporate multiple program areas while maintaining environmental responsibility.”\textsuperscript{142}

Director Daniel also chose to take advantage of the option to establish a committee to review potential projects, and he created a Citizens Advisory Committee to help consider projects.\textsuperscript{143} The Committee consists of ten members, and it includes: commercial fishermen; recreational fishermen; owners of a fish house, a private pier, a seafood company, and a boat company; and a member of the Marine Fisheries Commission (for the complete list of members, see Appendix D).\textsuperscript{144} These members were specifically chosen to provide a broad range of insights and opinions, from a variety of stakeholders, regarding the most worthy and necessary projects.\textsuperscript{145}

\begin{footnotesize}
\begin{enumerate}
\item Id.
\item Id.
\item Id.
\item Id.
\item Id. See also Budget Appropriations, N.C. Sess. Law 2007-323 § 29.14(e).
\item N.C. Division of Marine Fisheries, News Release, \textit{supra} note 139.
\item Louis Daniel, Director, N.C. Division of Marine Fisheries, Remarks at Waterfront Access and Marine Industry Fund Citizens Advisory Committee Meeting, Morehead City, NC (March 3, 2008).
\end{enumerate}
\end{footnotesize}
Choosing the projects to receive WAMI funding is a multi-stage process. First, the DMF requests applications for projects and sets a deadline for these applications to be received. The projects are then reviewed by the DMF staff, the Citizens Advisory Committee, and the 646 Committee, and the list is narrowed down to a more manageable size. The chosen applicants are then requested to submit presentations about their projects, and these are reviewed by the DMF staff and the Citizens Advisory Committee, both of which make recommendations and prioritize the projects. The next step is for Director Daniel to present the recommendations to the 646 Committee, which is responsible for choosing the best projects and determining how the $20 million should be allocated. Before the funds can be dispersed, however, the projects must be approved by the Joint Legislative Commission on Seafood and Aquaculture, as required by the WAMI establishing legislation. Once approved, the chosen projects are appraised and receive funding as appropriate over the following months. The DMF is responsible for establishing a governance system and monitoring the projects, and on October 1, 2008, it will report back to the Joint Legislative Commission on Seafood and Aquaculture about the governance system and the progress of funding the first round of projects.

Similar to the work of the WASC and the 646 Committee, the WAMI does not include specific environmental goals or requirements. The language in the establishing legislation is extremely broad and makes no reference to environmental impacts of WAMI projects. In addition, the strategic plan developed by the DMF and Director Daniel focuses on the nature of

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146 N.C. Division of Marine Fisheries, News Release, supra note 139.
148 Louis Daniel, Director, N.C. Division of Marine Fisheries, Presentation Re Timeline at Waterfront Access and Marine Industry Fund Citizens Advisory Committee Meeting, Morehead City, NC (March 3, 2008).
149 Id.
150 Id.
151 Id.
152 Id.
the projects and their economic benefits for North Carolina. However, the DMF does include environmental impacts as an important criterion in considering projects, because projects must maintain “environmental responsibility.” This language indicates that environmental impacts will be considered, and additional impacts will be minimized whenever possible. The word “maintain” suggests that the DMF will not use the WAMI process to increase environmental protections surrounding working waterfronts, but it will work to prevent additional negative impacts.

The WAMI funding process is an extremely open process, and allows for significant oversight and input from the public and non-profit organizations, such as Environmental Defense Fund. As such, the WAMI process provides the best opportunity for direct involvement in the state working waterfronts program. Environmental Defense Fund could become involved by providing comments to the DMF, either supporting or opposing specific projects. Comments can be sent to the DMF, or they can be made at the public meetings of the Citizens Advisory Committee. Any concerns Environmental Defense Fund might have about a specific project’s environmental impacts could be shared and would be taken into account by the DMF. A second option would be for Environmental Defense Fund to become involved in proposing a project for WAMI funding. While the projects must be sponsored and receive oversight from a state agency, Environmental Defense Fund could work with an agency or develop agency support for a project that meets the WAMI requirements and has environmental benefits that Environmental Defense Fund would be interested in promoting.

154 N.C. Division of Marine Fisheries, News Release, supra note 139.
155 Id.
156 For example, at the Waterfront Access and Marine Industry Fund Citizens Advisory Committee meeting in Morehead City on March 3, 2008, 2 members of the Vandemere, NC planning board got up and spoke about two project proposals in Vandemere, voicing their approval for one project and their opposition to another. The Committee welcomed these comments and included consideration of them when prioritizing projects.
Current Status of Working Waterfront and Public Access Program

The WAMI funding process is currently in progress, and the first set of projects are under review. Applications for funding had to be received by the DMF by November 1, 2007. The DMF received 159 applications for WAMI funding, totally approximately $500 million in requests. The DMF, with consideration of comments from the Citizens Advisory Committee, narrowed these projects down and requested 23 formal presentations from applicants. Two projects were removed from the list, and one was added by the 646 Committee. Ultimately, 20 presentations were received, and therefore DMF and the Citizens Advisory Committee had to prioritize these 20 projects, totaling approximately $70 million. The DMF staff set its list of priorities, and the Citizens Advisory Committee was then asked to form its own list of priorities. Because the Citizens Advisory Committee was an optional committee set up by the DMF, its recommendations would be considered, but they would not be conclusive, therefore Louis Daniel would reconcile the two lists and present one set of recommendations to the 646 Committee.

As a guide for its own prioritization and for use by the Citizens Advisory Committee, the DMF established evaluation guidelines and a list of 15 evaluation criteria to assess the project proposals. These guidelines were given to the Citizens Advisory Committee before the

\[158\] N.C. Division of Marine Fisheries, News Release, supra note 139.
\[159\] Louis Daniel, Director, N.C. Division of Marine Fisheries, Presentation Re Update on WAMI Decisions at Waterfront Access and Marine Industry Fund Citizens Advisory Committee Meeting, Morehead City, NC (March 3, 2008).
\[160\] Patricia Smith, Public Information Officer, N.C. Division of Marine Fisheries, Project Presentations at Waterfront Access and Marine Industry Fund Citizens Advisory Committee Meeting, Morehead City, NC (March 3, 2008).
\[161\] Id.
\[162\] Id.
\[163\] Louis Daniel, Presentation Re Timeline, supra note 148.
\[164\] Id.
committee reviewed the 20 project proposals, and the committee suggested that the guidelines be available to the public in the future.\textsuperscript{165} One of the evaluation criteria was that a project should be environmentally sound, and projects should be prioritized “based on impact to the environment.”\textsuperscript{166} Three specific environmental issues were to be explicitly considered. First, the project under consideration should have a plan for stormwater runoff that results in little or no impact to Outstanding or High Quality waters, impaired waters, primary and secondary nursery areas, critical habitat areas, and classified shellfishing areas.\textsuperscript{167} Second, the project should use and encourage the use of environmentally-friendly construction materials and techniques.\textsuperscript{168} Third, the project should require little or no dredging or disturbance to environmentally sensitive areas.\textsuperscript{169} The overarching theme of all of these considerations is that the project should have little or no environmental impact.\textsuperscript{170}

As is clear from the DMF’s evaluation criteria, consideration of environmental impacts is an important priority for the WAMI. The goal of these considerations is that projects receiving funding should be at least environmentally neutral, meaning the projects should not have negative environmental impacts. On the other hand, projects do not receive higher prioritization for having positive environmental impacts. Changing the guidelines just slightly, to suggest higher prioritization for projects with environmental benefits, would be one simple way to add environmental benefits as an additional important factor for funding. Because the evaluation criteria are not requirements, but only guidelines, adding this factor could help to promote

\textsuperscript{165} Patricia Smith, Project Presentations, \textit{supra} note 160.
\textsuperscript{167} \textit{Id.} at C(12)(a).
\textsuperscript{168} \textit{Id.} at C(12)(b).
\textsuperscript{169} \textit{Id.} at C(12)(c).
\textsuperscript{170} Patricia Smith, Project Presentations, \textit{supra} note 160.
projects with positive environmental impacts, but it would not significantly change the WAMI process. Environmental Defense Fund could propose this change to the DMF.

The DMF’s commitment to no negative environmental impacts was evident in its prioritization of WAMI proposals. Of the 20 projects under final consideration, two projects were automatically listed as “Not Recommended for Funding” because of the potential for negative impacts.\(^{171}\) One project was located in Hampstead, and it included a proposal to build a new boat ramp and to revitalize a pier for commercial fishermen. The DMF staff reviewed the location and found that the stretch of water where the project was proposed to take place was listed as a primary nursery area for shellfish, therefore, despite the potential economic and cultural benefits of the project, the DMF decided to recommend to the 646 Committee that the project not be funded.\(^{172}\) A second project was located in North Topsail Beach and included a proposal to purchase and develop 45 acres of waterfront property for various uses. The DMF staff found that a portion of the property included conservation easements held by the U.S. Army Corps of Engineers, plus, because of the project’s location on the intracoastal waterway, the project could lead to shellfish closures. Because of these two environmental issues, the DMF staff automatically recommended that this project not be funded either.\(^{173}\) The recommendations against funding these two projects demonstrate the DMF’s commitment to no negative environmental impacts, and they should reassure Environmental Defense Fund that the DMF is providing oversight of the project proposals and making sure that environmental impacts are properly considered for WAMI projects.

\(^{171}\) Id.
\(^{172}\) Louis Daniel, Director, N.C. Division of Marine Fisheries, Remarks Re Project Proposals at Waterfront Access and Marine Industry Fund Citizens Advisory Committee Meeting, Morehead City, NC (March 3, 2008).
\(^{173}\) Id.
Based on the WAMI Guidelines and comments from the DMF staff, two important environmental issues emerge in relation to WAMI funding, one of which was an important consideration since the start of the WASC process and one of which is new to the WAMI discussions. The first issue is stormwater runoff and the second is low-impact development. Stormwater runoff, and opposition to the state’s Phase II Stormwater Runoff Rules, emerged as an important issue during the WASC process, and it remains an important consideration for the WAMI funding. An important goal for the projects is that they are at least stormwater neutral, meaning they at least have no negative impacts from stormwater runoff. Low-impact development involves using building techniques and materials that are environmentally-friendly, such as including rain guards, using as little paving as possible, and using recycled materials when possible. Low-impact development was not a major topic of discussion during the WASC process, but the DMF chose to include it as an important environmental guideline for WAMI projects. The DMF wants to ensure that the projects it supports do not require heavy development, and therefore making low-impact development a goal for WAMI projects makes sense. In addition, the WAMI projects could serve as demonstration sites for low-impact development, and the successful use of new techniques or materials at these sites could encourage broader use in private projects or in future WAMI projects, if the WAMI receives another round of funding in the future. Because of the prominent role of stormwater runoff and low-impact development in the consideration of WAMI projects, if either of these topics are of special interest or concern to Environmental Defense Fund, the WAMI process could provide

176 Michelle Duval, Remarks, supra note 174.
177 Id.
a useful forum for sharing ideas and comments. In particular, the WAMI provides an especially rich opportunity to promote low-impact development, because the DMF might be interested in using WAMI projects as demonstration sites. If Environmental Defense Fund, or any other environmental organization, is interested in low-impact development, it should look for greater involvement in the WAMI process in the future, either by submitting a proposal or supporting particular projects.

**Recommendations and Additional Opportunities for Environmental Defense Fund**

The WASC and WAMI processes provide some opportunities for Environmental Defense Fund to promote environmental issues as part of North Carolina’s working waterfronts and public access program. However, as discussed above, the opportunities are relatively limited in scope and in the types of issues that might be addressed. For example, the health of fish stocks was not a topic that was discussed at length during the WASC process, and therefore, if Environmental Defense Fund was interested in promoting that as an important issue, the working waterfronts forum might not be the appropriate place to raise it. This section summarizes recommendations about opportunities for Environmental Defense Fund to get involved in the current state working waterfronts program, and it also provides examples of additional opportunities that Environmental Defense Fund might want to pursue, if the organization is interested in promoting environmental benefits at working waterfronts.

**Recommendations for Involvement in State Waterfront Access Program**

The first aspect of the state working waterfronts program, PUV taxation, is a useful policy tool for supporting working waterfronts. It reduces the tax burden for working waterfront
property owners, thus helping commercial waterfront business owners to continue to operate. PUV taxation also is a relatively simple tool for the state to administer because it is modeled after tax provisions that are already in place for agricultural property. While it is helpful for working waterfronts and simple to administer, the PUV taxation system offers little opportunity for pursuing environmental benefits. It is a tax break that requires only that the property owner maintain a commercial, water-dependent business. To require additional environmental regulations would go against the spirit of the tax break and would add an unnecessary burden on those receiving the break. PUV taxation does not offer Environmental Defense Fund reasonable opportunities to pursue environmental goals, and therefore, Environmental Defense Fund should not attempt to change the working waterfords PUV taxation system.

The one opportunity that PUV taxation might create would be if Environmental Defense Fund wanted to advocate for PUV taxation for waterfront property that is used for conservation purposes. This would not change the working waterfords PUV taxation, but would add another category of property eligible for PUV taxation. This waterfront conservation PUV taxation could follow the wildlife conservation land PUV taxation that is was proposed in 2007 and is still currently under consideration in the General Assembly. House Bill 1889, which was passed on August 1, 2007, allowed for PUV taxation of a new category of property defined as wildlife conservation land.\textsuperscript{178} A similar bill in the Senate, Senate Bill 569, stalled in the Senate Finance Committee, but is up for review again during the 2008 General Assembly Session.\textsuperscript{179} In the meantime, a Revenue Laws Study Committee was established to study opportunities for extending PUV taxation and to explore other ways to reduce taxes to preserve nondevelopmental

land, and to report back to the General Assembly about these opportunities. The General Assembly is concerned with preserving nondevelopmental land throughout the state, and therefore, there might be opportunities for Environmental Defense Fund to encourage the General Assembly to expand PUV taxation to waterfront property reserved for conservation purposes.

The second aspect of the state working waterfront program is the 646 Committee, which was created to lead the state’s effort to preserve and enhance working waterfronts and public access. This Committee will be the centerpiece of the state working waterfront program, and it will be responsible for an overall strategic plan and proposals for specific policy actions. Since the Committee includes heads of numerous state environmental divisions, it also will be providing oversight over the environmental impacts of the working waterfronts program. The 646 Committee’s establishing legislation and legislative mandate do not include specific environmental goals, however, and therefore any environmental aspects of the working waterfronts program are likely to be secondary goals. Through the WAMI process, the Committee has already expressed an interest in maintaining environmental quality, but not necessarily pushing for improvements.

Due to the open and public nature of the Committee’s work as a state government body, if Environmental Defense Fund has specific environmental goals it would like to see pursued as part of the working waterfronts program, it has the opportunity to present these ideas to the Committee for consideration. If the suggestions fit within the Committee’s mandate and advance working waterfronts and public access, the Committee could attempt to pursue them. If Environmental Defense Fund does not have specific suggestions, however, the best course of action would be to monitor the work of the 646 Committee, as a way to keep abreast of changes.

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in the working waterfronts program, but not necessarily to get involved in the Committee’s work. As the working waterfronts program progresses, it is possible that the 646 Committee will push the General Assembly to implement additional recommendations from the WASC. Michael Voiland, chair of the WASC and a member of the 646 Committee, believes that the actions to date were a good start, but that the General Assembly might have run out of time to address all of the WASC’s recommendations. In addition, he expects some of the WASC’s recommendations to come up before the 646 Committee. Over the next year, as the Committee is developing, there is likely to be additional action regarding working waterfronts, and therefore, if Environmental Defense Fund has any interest in the working waterfronts program, it is advisable for the organization to at least monitor the 646 Committee’s work.

The third aspect of the state’s working waterfronts program that is already established is the WAMI. The WAMI guidelines require consideration of environmental impacts of all projects applying for WAMI funding. The goal of WAMI projects in relation to environmental impacts, as established by the DMF, is to have no negative environmental impacts. Environmental benefits are not required, but projects should be at least environmentally neutral. In particular, the DMF wants to promote stormwater neutral projects and projects with low-impact development. Though not directly related to fisheries issues, if Environmental Defense Fund is interested in promoting low-impact development, the WAMI might be an appropriate forum for direct discussion of this issue. In addition, Environmental Defense Fund is free to share comments about project proposals with the DMF, and these comments will be considered during the prioritization of projects.

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182 Id.
The WAMI does provide an opportunity for Environmental Defense Fund to get directly involved with working waterfronts preservation by partnering with a state agency and proposing a WAMI project. If Environmental Defense Fund was able to locate a working waterfront or public access property that meets the WAMI criteria and also provides opportunities for environmental improvements, it would be free to apply for funding. All projects must be owned by the state, through a state agency, but Environmental Defense Fund could identify a property and work with an agency to develop a plan for management of the property. The WAMI has not yet determined how governance of the projects will be handled, and this probably will not be determined until October, so Environmental Defense Fund’s potential role in a property is still an open question. However, Environmental Defense Fund is free to identify appropriate properties or work with individuals to identify properties that would meet the goals of the WAMI and Environmental Defense Fund.

Additional Opportunities for Involvement in Waterfront Access

In addition to the opportunities provided by PUV taxation, the 646 Committee, and the WAMI, if Environmental Defense Fund wants to actively pursue involvement in the working waterfronts program, it could identify other opportunities to pursue environmental issues through alternative avenues. Specifically, Environmental Defense Fund could work to develop partnerships directly with individuals or organizations involved in working waterfronts, including fishermen and developers. Environmental Defense Fund has a history of developing partnerships with businesses, governments, and communities to develop practical environmental

184 Louis Daniel, Director, N.C. Division of Marine Fisheries, Remarks at Waterfront Access and Marine Industry Fund Citizens Advisory Committee Meeting, Morehead City, NC (March 3, 2008).
solutions. It is these innovative, and often unusual, partnerships that have brought Environmental Defense Fund success in the past, and such partnerships could be used to develop practical environmental solutions along North Carolina’s working waterfron

One option would be to foster relationships with developers. Even with North Carolina’s efforts to preserve working waterfron
costal development will continue, and Environmental Defense Fund could attempt to reach out to developers to encourage them to use low-impact development whenever possible. This is a goal of the WAMI, and therefore efforts by Environmental Defense Fund to promote low-impact development on the coast would harmonize with the state’s efforts. Historically, Environmental Defense Fund has not worked with developers directly, but it has worked with businesses in industries such as transportation, consumer goods, retail, and manufacturing to help these businesses develop more environmentally-friendly operating methods. Developers could be encouraged to use such simple methods as reducing the overall footprint of a project or incorporating more recycled materials into building. While these relationships would fall outside the umbrella of working waterfron
to try to establish arrangements that could benefit the environment and developers.

Reaching out to developers could help address the environmental impacts of development, but the issue of working waterfron

The decline of working waterfron threatens the very existence of a viable commercial fishing industry, which is an important stakeholder group on the coast, so Environmental Defense Fund


\[186\] See LESLIE CRUTCHFIELD & HEATHER MCLEOD GRANT, FORCES FOR GOOD 55-58 (2007).


could work with fishermen to promote the interests of both groups. Environmental Defense Fund already has experience working with commercial fishermen in other states, and the organization could use these experiences to work to establish relationships with fishermen in North Carolina. Relationships might include regional plans with groups of fishermen, a private or public-private fund to aid fishermen and promote conservation goals, or helping fishermen help themselves by providing opportunities for technical or economic assistance. These types of relationships have been successful in the past, and could provide new opportunities in North Carolina. Through plans that assist fishermen economically, the commercial fishing industry would have more money to retain working waterfronts.

The first option could be to develop a regional plan with fishermen in North Carolina. In Morro Bay, California, Environmental Defense Fund worked with fishermen to develop a plan to benefit the environment and commercial fishermen in one specific region. Environmental Defense Fund and The Nature Conservancy identified Morro Bay as a high priority zone for ocean conservation, but there was too much fishing effort in the region, which hurt the fish stocks and the value of commercial fishing in the area.\(^{189}\) Environmental Defense Fund, The Nature Conservancy, local fishermen, the Monterey Bay Aquarium’s Center for the Future of the Oceans, and central coast harbormasters (Morro Bay, Port San Luis, Moss Landing, Monterey, Santa Cruz, Half Moon Bay) joined together to form the Fishing Heritage Group to discuss the environmental and economic problems in the area.\(^{190}\) The group developed a plan that would increase conservation by reducing fishing effort, while also increasing the value of commercial fishing.


\(^{190}\) *Id.*
fishing in the area. They convinced the Pacific Fishery Management Council to ban bottom trawling in certain zones in the Morro Bay region, while leaving some productive fishing grounds open. Environmental Defense Fund and The Nature Conservancy then teamed up to purchase fishing vessels and permits from willing sellers, in order to reduce the fishing effort in the remaining fishing zones. This combination of approaches reduced pressure on the fisheries, thus improving conservation, while simultaneously improving the supply and value of fish caught by the remaining fishermen, and ultimately, preserving the working waterfront and fishing heritage of Morro Bay. This collaboration is one example of the kinds of innovative relationships that could be developed to benefit both the fishing industry and environmental groups.

A second option would be for Environmental Defense Fund to lead an effort to establish a private or public-private working waterfronts fund in North Carolina, separate from the WAMI, and perhaps with greater consideration of fish stocks. The organization has experience with this kind of effort as well, also in California, through the development of the California Fisheries Fund. The California Fisheries Fund uses low-interest loans to fishermen and communities to allow for sustainable fishing practices and business models. The California Fisheries Fund was initiated by the California Ocean Protection Council, and developed jointly by Environmental Defense Fund; ShoreBank Enterprise Cascadia, a community development bank; and the Sustainable Fisheries Group, an alliance of leading marine scientists, economists and ocean advocates. In addition, development of the Fund relied on the assistance of over 70

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fishermen and other experts and the support of many fishermen and community leaders from San Diego to Fort Bragg. The goal was to develop a capital investment fund intended to improve the conservation and financial performance of California’s marine fisheries. The Fund would provide a permanent source of capital for funding research and planning, beginning with capitalizing permanent locally based Fishery Foundations to enable fishermen to develop and implement research, local co-management entities, and innovative market-based practices. The intended outcomes of the Fund were improved scientific information, enhanced stewardship of fish stocks and habitats, better fishery jobs, improved profitability, and revitalized coastal communities. The Fund was developed as a joint public-private venture, with the initial $2 million of seed funding coming from the Ocean Protection Council, and approved by the California Coastal Conservancy, and then the bulk of the funding coming from private resources, including grants and debt, for a total of $8 million for the start-up phase of the Fund. If successful, the California Fisheries Fund could greatly benefit both fish stocks and fishermen. Environmental Defense Fund could use this as a model for a similar fund in North Carolina, with a focus on working waterfronts and conservation. Some funding could come from the state, or the fund could be an entirely private venture. Obviously, Environmental Defense Fund would need partners in North Carolina, including fishermen, but pursuing this type of fund would be another way to promote working waterfronts and conservation.

A third, and less time and resource intensive, option for Environmental Defense Fund would be to support or encourage fishermen to lead their own efforts to promote working

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196 Id.
198 Id.
199 Id.
200 Id. at 3.
waterfronts and conservation. Not all efforts must be state-sponsored, and fishermen can very successfully promote their own interests as well. Port Salerno, Florida provides an excellent example of a situation where the fishermen decided to take their own measures to save their working waterfronts, and they promoted environmental sustainability in the process. Port Salerno, located in Marin County, was a fishing hub for much of the twentieth century, but the commercial fishing industry faced a steep decline as the working waterfronts were converted to other uses, such as art houses.201 Community organizers and commercial fishermen resisted these changes and came together to protect and revitalize the waterfront.202 The commercial fishermen formed their own non-profit, the Port Salerno Commercial Fish Dock Authority (PSCFDA) to lead the effort to advance their interests.203 The primary goal of the PSCFDA was to protect waterfront access for off-loading and selling fish and seafood.204 In promoting this goal, however, the PSCFDA developed innovative ways to protect waterfront access while also providing environmental benefits. The community and the PSCFDA built a marina walk along the waterfront which included working commercial fishing docks, and the fishermen sold fish from the docks and provided educational opportunities by showing people a working fishing dock.205 In addition, the fishermen became involved in community environmental projects, such as a reef cleanup and the Keep Marin Beautiful campaign; they got involved in local and county politics; and they hosted successful seafood festivals to benefit PSCFDA and the Rivers Coalition, a local environmental group.206 By getting involved with the community, the commercial fishermen in Port Salerno were able to gain acceptance and support, enhance their

202 Id.
203 Id. at 59.
204 Id. at 27.
205 Telephone Interview with Mike Baker, President, Port Salerno Commercial Fish Dock Authority (March 29, 2007).
206 Id. See also Rivers Coalition, Events, http://www.riverscoalition.com/events.php (last visited Apr. 22, 2008).
working waterfront, and promote environmental stewardship. Port Salerno has also gained state support, as a Waterfronts Florida Community from 2001 to 2003, but it was the efforts of the fishermen that helped make working waterfront preservation a reality.

Environmental Defense Fund could look to Port Salerno and other examples and work to recreate such experiences in North Carolina. These efforts would rely on true grassroots actions and would require individual communities and smaller groups of fishermen to take action on their own behalf. Such efforts could lead to successful preservation of working waterfront areas. If Environmental Defense Fund could get involved or even spearhead such actions, it could have an opportunity to encourage these groups to consider environmental stewardship actions as part of the effort, as the fishermen in Port Salerno did. Obviously, Environmental Defense Fund would have to develop relationships with fishermen before it could get involved.

One option would be to sponsor seminars or workshops with North Carolina fishermen and fishermen from Port Salerno or other communities that used similar innovative techniques. Similarly, Environmental Defense Fund could sponsor seminars to promote a private fund similar to the California Fisheries Fund and invite fishermen from California to participate. These seminars or workshops would be designed as educational opportunities, and they could start a dialogue that could lead to innovative new programs in North Carolina. Environmental Defense Fund would have less direct involvement in such programs, serving primarily to facilitate them, but ultimately these programs could benefit fishermen and the environment, as they did in Port Salerno and California.

One other issue that Environmental Defense Fund has worked on recently is the use of individual fishing quotas (IFQs), also known as catch shares or limited access privilege programs.

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207 FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS, supra note 201 at 27.
A recent Environmental Defense Fund research project pulled together information from 14 months of work, 150 peer-reviewed studies, data on nearly 100 fisheries, and in-depth analyses of 10 catch share fisheries to reach conclusions about the effectiveness of catch share programs from economic and environmental perspectives. The report concluded that catch share programs could have environmental, economic, and social benefits, including protecting the environment, increasing profits, providing higher quality fish, creating more full-time jobs, and saving lives. For one particular IFQ program, developed for the red snapper fishery in the Gulf of Mexico, after one year, data showed that bycatch was down by at least 50 percent, the fishing season had tripled, and the value of the fish at market had increased.

While Environmental Defense Fund might be interested in pursuing catch share programs in North Carolina, the state working waterfronts program is not the appropriate forum. IFQs were not discussed as a management tool during the WASC process. The WASC avoided discussions of fish stocks or additional regulations in general, and the only fisheries issue the WASC did discuss was support for commercial fishermen. The use of IFQs is an issue separate from working waterfronts preservation, and therefore it should not be tied into the state working waterfronts program. If Environmental Defense Fund is interested in pursuing the

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210 Id.


212 Interview with Michael Voiland, supra note 56; Interview with Hardy Plyler, supra note 58; Interview with Mac Currin, supra note 53.

213 Interview with Hardy Plyler, supra note 58.
issue, the appropriate agencies are the DMF and the Marine Fisheries Commission, which have been studying the issue for the past few months.\textsuperscript{214}

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Appendix A: Informed Consent for Waterfront Access Study Committee Interviews

My name is Sean Roberts, and I am a joint law and environmental management graduate student at Duke University. I am conducting research to gauge potential opportunities for environmental improvements associated with supporting working waterfronts, including commercial fishing and related marine businesses, in North Carolina. Primarily, I want to gauge the potential impact of legislation recently passed by the General Assembly to bolster working waterfronts and public water access.

I am interviewing members of the Waterfront Access Study Committee. I would like to ask you a few questions regarding certain environmental issues that the committee might have discussed. The questions should take approximately 15-20 minutes. Your participation is completely voluntary, and you are free to skip any question or stop at any time. Your answers will not generally be kept confidential, but you are free to request that any or all of your comments remain anonymous.

The results of the interviews will be compiled and some of the statements will be included in a research project I am completing in April 2008 for my masters degree. The masters project will be accessible to students and professors at Duke University. In addition, my final report will also be shared with Environmental Defense Fund, a national environmental non-profit organization with an office in Raleigh, NC. Environmental Defense Fund has an interest in the issue of working waterfronts in North Carolina, and is considering getting more involved in the issue, and the report will be used in the Raleigh office to inform employees about the topic.

If you have any questions or concerns, or if you want additional information about the research, please feel free to contact me by e-mail (sean.roberts@duke.edu) or by phone (631-766-7796). Thank you in advance for your participation.
Appendix B: Interview Questions for Waterfront Access Study Committee

1. During discussions of potential tools to preserve working waterfronts, were environmental effects of working waterfronts discussed?
   a. Water quality?
   b. Status of fish stocks?

2. Were environmental effects of development discussed?

3. If environmental effects were discussed at all, were they discussed directly or indirectly as part of other discussions?

4. Was consideration of environmental effects a goal of the Committee?

5. Did public comments address environmental effects of working waterfronts? What issues were raised?

6. The Division of Marine Fisheries has said, “Funding priority will be given to multi-use facilities that incorporate multiple program areas while maintaining environmental responsibility.” Was this suggested by the WASC?

7. Did the WASC suggest criteria for approval of projects or were the criteria for projects developed entirely by the Division of Marine Fisheries?

8. Do you think environmental effects should be taken into account for working waterfronts projects, or do you believe such projects should be based just on economic and public access concerns?

9. Did the committee have any discussion about individual fishing quotas (IFQs)?
Appendix C: Members of the Waterfront Access Study Committee

Waterfront Access Study Committee


(1) The Director of the Sea Grant College Program of The University of North Carolina or the Director’s designee. (Committee Chair) **Michael Voiland, Executive Director, North Carolina Sea Grant**

(2) The Senate Cochair of the Joint Legislative Commission on Seafood and Aquaculture or the Cochair’s designee. **Senator Charles Albertson, Senate Cochair, Joint Legislative Commission on Seafood and Aquaculture**

(3) The House Cochair of the Joint Legislative Commission on Seafood and Aquaculture or the Cochair’s designee. **Representative William Wainwright, House Cochair, Joint Legislative Commission on Seafood and Aquaculture**

(4) The Chair of the Marine Fisheries Commission or the Chair’s designee. **Mac Currin, Chair, Marine Fisheries Commission**

(5) The Chair of the Coastal Resources Commission or the Chair’s designee. **Courtney Hackney, Chair, Coastal Resources Commission**

(6) The Chair of the Wildlife Resources Commission or the Chair’s designee. **Gordon Myers, Deputy Director, Wildlife Resources Commission**

(7) The Director of the Division of Marine Fisheries or the Director’s designee. **Brian Cheuvront, Federal Aid Coordinator, Division of Marine Fisheries**

(8) The Director of the Division of Coastal Management or the Director’s designee. **Charles Jones, Director, Division of Coastal Management**

(9) The President of the North Carolina Recreation and Parks Association or the President’s designee. The individual who serves in this position must also be a director of a public parks and recreation agency located in a coastal region as described in G.S. 143B 289.54(b). **Neal Lewis, Director, New Hanover County Parks and Recreation**

(10) A representative of a local government located in the Northeast Coastal Region, as described by G.S. 143B 289.54(b), appointed by the President Pro Tempore of the Senate. **Allen Burrus, County Commissioner, Dare County**

(11) A representative of a local government located in the Central Coastal Region, as described by G.S. 143B 289.54(b), appointed by the Speaker of the House of Representatives. **Art Schools, Mayor, Emerald Isle**
(12) A representative of a local government located in the Southeast Coastal Region, as described by G.S. 143B 289.54(b), appointed by the President Pro Tempore of the Senate. **John Vereen, Mayor, Oak Island**

(13) An economist appointed by the Speaker of the House of Representatives. **Doug Wakeman, Meredith College**

(14) A representative of the residential building industry who builds in a coastal region as described in G.S. 143B 289.54(b), appointed by the President Pro Tempore of the Senate. **Buddy Milliken, The Milliken Company**

(15) A realtor licensed under Chapter 93A of the General Statutes, appointed by the Speaker of the House of Representatives. **Julia Wax, Emerald Isle Realty**

(16) An individual involved in economic development in a coastal region as described in G.S. 143B 289.54(b), appointed by the President Pro Tempore of the Senate. **Dave Inscoe, Carteret County Economic Development Council**

(17) A representative of the marine trades industry appointed by the Speaker of the House of Representatives. **Robin Mann, Paul Mann Custom Boats, Mann’s Harbor**

(18) A representative of the commercial fishing industry appointed by the President Pro Tempore of the Senate. **Hardy Plyler, Commercial Fisherman, Ocracoke**

(19) A representative of the recreational fishing industry appointed by the Speaker of the House of Representatives. **Ernie Foster, The Albatross Fleet, Hatteras**

(20) A social scientist appointed by the President Pro Tempore of the Senate. **Barbara Garrity-Blake, Cultural Anthropologist/Book Author, Gloucester**

(21) A representative of the environmental community appointed by the Speaker of the House of Representatives. **Jim Stephenson, Policy Director, N.C. Coastal Federation**
Appendix D: Members of the DMF Citizens Advisory Committee to the Waterfront Access and Marine Industry Fund

Citizens Advisory Committee to the Waterfront Access and Marine Industry Fund

- Barbara Garrity-Blake, a Marine Fisheries Commission member and social scientist from the Carteret County community of Gloucester, who sat on a legislative Waterfront Access Study Committee
- Bill Rixey, owner of Bogue Sound Boat Company in Morehead City
- Willy Phillips, owner of Full Circle Crab Company in Columbia
- Travis Elliott, owner of Capt’n Pete’s Seafood Market in Holden Beach
- Brian Shepard, of New River Nets in Sneads Ferry
- Tilman Gray, a commercial fisherman nominated by the North Carolina Fisheries Association
- Mark Ledermann, a recreational fisherman from Wrightsville Beach nominated by the Coastal Conservation Association of North Carolina
- Tom Potter, a recreational fisherman from Pikeville and president of the North Carolina Paddle Trails Association
- Gary Oliver, owner of Nags Head Pier
- Hardy Plyler, a co-op fish house owner from Ocracoke Seafood Company.
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