

CSRWG 16 June 2008

Davis

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Dear Mr. Reeder and Mr. Givens:

Thank you for your diligence and patience during the 605 process regarding the coastal stormwater rules. I realize this process is in its final stages and would like to submit the remaining issues that merit additional attention for rule change:

1. The limits of S.A. waters need to be defined quantitatively as "shellfish resource waters" in order to be consistent with the Phase 2 rules (definition #15) which is 500 ppm natural chloride content. In addition, a prescriptive or qualitative method should also be allowed as the limits of CAMA vegetation within designated S.A. Waters.
2. Proposed Rule b-6 regarding separation from seasonal high water table for infiltration systems. This should be lowered from 2 ft separation to 1 ft separation to be consistent with Phase 2 stormwater rules. The 2 ft water table separation criteria for stormwater infiltration is exceedingly difficult to meet in coastal counties. In addition, none of DWQ's recommended infiltration BMP's such as permeable pavement could be utilized in most areas.
3. A 30 ft vegetative buffer is sufficient for low & high density development, and which makes it consistent with Phase 2 rules. It also needs to be stated a vegetative buffer can be within wetland areas. When engineered stormwater systems are installed the stormwater is treated and a 50 ft vegetative filter is already required, which should also be the vegetative buffer, thus within the proposed rules the "and" between b-2-B-iii and b-2-B-iv should be deleted.
4. Within 1/2 mile of S.A. Waters, detention ponds should be kept as a tool for stormwater treatment solutions. There is no data showing that detention pond systems adversely impact coastal water quality any more than other stormwater treatment and control system. It is critical to the regulated community that the detention pond tool remain available for stormwater treatment and control within 1/2 mile of SA waters.
5. Minimum lot sizes for "12% low density subdivisions" will increase to >0.83 acre from the current ~0.40 acre. Affordable low density coastal housing within 1/2 mile of S.A. waters may be a thing of the past. Recognizing that natural wetlands are the best biofilters, we need to allow a landowner prorated credits for their wetland acreage, relative to built upon area density limits, such as 18 to 25% density if the tract has >50% wetlands, to 12% density if the tract has 0%

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wetlands. This is already being done to some degree with NCDWQ's current internal guidance policy that has been discussed at length in defining "pocket of high density".

6. Proposed Rule b-2-C. This part requires low and high density projects within 1/2 mile of S.A. Waters to effectively infiltrate all stormwater within the vegetative buffers up to the annual 24 hr storm event or 3.8 inches. It further states you cannot increase the net amount or volume of water that leaves your tract. This is an impossibility on most sites. We can control the rate and velocity of discharge, but not the total volume or amount. All water runs down hill or laterally which has to increase the volume of water to any drainage conveyance. Please change this wording to mean, "Stormwater will diffuse flow through the vegetative filter at a non-erosive velocity at a rate not to exceed the drawdown time of the designed stormwater structure".

7. The effective date of any compromised rules needs to allow sufficient time for landowners to evaluate their circumstances in order to complete the necessary evaluations and engineering design for permit submittals (+6 - 9 months). In addition, these rules could reduce currently planned and financed projects by 1/2 which would make them economically unfeasible, leaving the banking industry with a multitude of bankruptcies. The effective date should be +9 to 12 months from any date these rules should be approved by the General Assembly. Even this may not be sufficient time with current economical conditions.

8. "Pocket of high density" needs to be defined as meeting the rules and criteria for a high density project. Otherwise, it is very discretionary and arbitrarily applied.

9. Vested rights, exemptions, and grandfathering clauses need to be written as clearly and liberally as possible to allow vested landowners and the banking industry reasonable due usage for their investments.

Again, thank you for your time and efforts in this process. Hopefully, with these items addressed and agreed upon, that a compromise can be attained within the limited time available.

With kindest regards, I remain

Very Truly Yours,

WARREN J. DAVIS