



PAT MCCRORY  
*Governor*

DONALD R. VAN DER VAART  
*Secretary*

**NC COASTAL RESOURCES ADVISORY COUNCIL**  
**November 17, 2015**  
**Hilton Double Tree**  
**Atlantic Beach, NC**

<b>1:00</b>	<b>CALL TO ORDER (TBD)</b> <ul style="list-style-type: none"><li>• Roll Call</li><li>• Approval of September Meeting Minutes</li><li>• Officer Elections</li></ul>	Debbie Smith  Daniel Govoni
<b>1:10</b>	<b>Sandbag Policy Discussion</b>	Debbie Smith
<b>1:40</b>	<b>Report on Sea Level Rise/Historical Erosion Rates And the Comparison of Erosion Rates in Inlet Areas vs. Non Inlet Areas</b>	Spencer Rogers
<b>1:50</b>	<b>CRAC Membership Old/New Business</b>	Debbie Smith
<b>2:00</b>	<b>Adjourn</b>	

Next Meeting: February 10-11; TBD





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**NC Coastal Resources Advisory Council  
September 23, 2015  
New Hanover County Government Complex, Wilmington, NC  
Meeting Summary**

**Attendance**

Debbie Smith (Chair)	Spencer Rogers (Vice Chair)
Jett Ferebee	Rudi Rudolph (Vice Chair)
John Brodman	Ray Sturza
Robert Outten	Dave Weaver
David Moye	J. Michael Moore
Frank Rush	Lee Wynns

**Call to Order**

Debbie Smith called the meeting to order at 9:00 am, with 12 members in attendance.

Minutes were approved unanimously.

**CRAC Appointments**

Staff explained that Session Law 2013-360 terminated the CRAC membership effective June 30, 2015. Staff also discussed that this issue would be presented to the Commission requesting possible reappointments for the next two year term.

**Sandbags**

Staff presented a Legislative update regarding House Bill 97, specifically as it pertains to sandbags. Staff concluded the presentation detailing the history of sandbag rules in North Carolina and the Council began discussing sandbag rules in general. Frank Rush recommended that the Council should study sandbag rules for individual cases instead of a coast wide approach. Spencer Rogers commented to allow a one-time limited use of sandbags, the possibility of allowing sheet pile walls in the Ocean Hazard Area, and the removal of vegetative requirements from rule. Lee Wynns suggested the Commission start over with new sandbag rules. David Moye recommended that sandbags need to be only removed if they are exposed.

The discussion concluded with Council consensus that it was time to start over with a clean slate regarding sandbag rules and that if sandbags are uncovered or unsightly then we need to be able to pursue litigation. The council agreed to continue discussing the future of sandbags use in North Carolina.

**Adjourn**

With no further business the Council adjourned at 10:00 am and joined the CRC meeting.





## Todd S. Roessler

COUNSEL

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Todd Roessler focuses his practice on a wide range of matters related to environmental transactions, regulatory counseling, and litigation. In particular, Mr. Roessler has extensive experience in coastal law and issues, including dredged material management practices, beneficial use projects, beach renourishment, beach erosion, permitting, endangered species, access issues, property rights, environmental studies, offshore leasing, tort liability, the Coastal Zone Management Act, the National Environmental Policy Act, the Endangered Species Act, the Clean Water Act, the Rivers and Harbors Act, the Marine Protection, Research and Sanctuaries Act, the Organic Act, the Coastal Barrier Resources Act, the Magnuson-Stevens Fishery Conservation and Management Act, the North Carolina Coastal Area Management Act, and the North Carolina Environmental Policy Act.

Mr. Roessler has significant experience related to coastal processes and published several articles related to the effects of dredging tidal inlets and associated disposal of sediment on nearshore processes.

### Experience Highlights

Worked on teams handling the following matters:

#### **Serve as Special Counsel to the State of Ohio on dredged material management issues**

Provide strategic and legal advice to the State in connection with federal lawsuit against the U.S. Army Corps of Engineers' proposal to dispose contaminated dredged material in Lake Erie.

#### **Provide strategic advice to local governments on beach and dredged material management issues**

Represent local governments in connection with beach management issues and development of DMMPs for federal navigation projects to protect clients' interests, including negotiations with the U.S. Army Corps of Engineers, National Park Service and adjacent barrier islands related to beneficial reuse of dredged material.

#### **Assisted in developing broad stakeholder group to oppose placement of dredged material on undeveloped National Seashore**

Stakeholder group supported placement of dredged material on developed barrier island where it would protect valuable infrastructure and property and provide recreational benefits.

#### **Environmental compliance, permitting and litigation for Georgia Ports Authority**

Represented Georgia Ports Authority with respect to environmental issues, including wetlands mitigation, water quality, dredged material management, endangered species, and coastal erosion, in connection with proposed deepening of Savannah Harbor.

**Provide strategic advice to local governments on permitting of local beach renourishment projects and leasing offshore borrow areas**

Represent coastal local governments related to permitting, leasing and environmental studies.

**Federal litigation against Army Corps of Engineers relating to management of dredged material**

Negotiated favorable settlement in suit filed by Carteret County against the Corps' alleging that dredged material management practices associated with a federal navigation project violated the National Environmental Policy Act and the Coastal Zone Management Act. Represented local government intervenors in a similar federal lawsuit.

**Federal litigation against National Park Service relating to off-road vehicle access at National Seashore**

As local counsel, represent organization in connection with federal lawsuit against National Park Service in connection with off-road vehicle access to National Seashore alleging violations of Organic Act, Enabling Act and National Environmental Policy Act.

**Federal litigation against National Marine Fisheries relating to unlawful take of listed sea turtles**

Assisted in lawsuit filed by North Carolina Fisheries Association, Inc. alleging that federal agency's authorization, control and regulation of the recreational fishing industry that results in injuries and death to listed sea turtles is a take of listed sea turtles in violation of the Endangered Species Act.

**Provide legal advice to coastal local governments, commercial fishermen, developers and property owners related to Endangered Species Act**

Represent local government coalition with respect to listing of and/or proposed designation of critical habitat for listed or proposed species, including the loggerhead sea turtle, red knot rufa and Atlantic sturgeon.

**Counsel to local government on development and implementation of Dredged Material Management Plan**

Represent Carteret County in connection with development of a DMMP for the Morehead City Harbor Project, including negotiations with the Corps and National Park Service related to proposed beach renourishment at Shackleford Banks.

**Provide legal advice to property owners association in connection with Coastal Barrier Resources Act**

Represent Melrose Property Owners Association with respect to developing legal and strategic plan to remove Daufuskie Island from Coastal Barrier Resources System.

**Counsel to coastal local government on permitting of terminal groin**

Represent Town of Holden Beach with respect to permitting and environmental study related to proposed terminal groin.

**Counsel to local government on Coastal Barrier Resources Act Pilot Project**

Represented Carteret County with respect to potential impacts of proposed expansion of Coastal Barrier Resources System.

**Environmental compliance and permitting related to proposed resort development in St. Croix**

Represented developer with respect to proposed resort development in St. Croix, including potential impacts related to beach renourishment, stormwater, essential fish habitat, and endangered species (coral and sea turtles).

## **Provide advice to the Republic of Fiji in amending Mineral Act of 1978**

Assist with amending Fiji's Mineral Act to protect the island nation's tourism industry while providing economic opportunities related to its natural resources.

### **Publications & Articles**

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"Potential Tort Liability for Beachfront Property Owners in North Carolina?" *Legal Tides*, Summer 2015.

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"How Can a Beach Audit Ensure That Your Town Has a Beach?" *Legal Alert*, January 2013.

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"Beach Changes Along Eastern Bogue Banks, NC Resulting From the 1996 Hurricane Season," *J. of Coastal Research*, Summer 2000.

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"Influence of Channel Modification and Offshore Disposal Under Storm and Non-storm Conditions on Eastern Bogue Banks, NC," *68 Shore and Beach* 19, 2000.

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### **Professional & Community Activities**

American Shore & Beach Preservation Association, Board of Directors

North Carolina Coastal Resources Law, Planning and Policy Center, Board of Advisors

*North Carolina Journal of International Law and Commercial Regulation*, Former Editor

### **Education**

University of North Carolina School of Law, J.D., *with honors*; *Order of the Coif* (2001)

University of North Carolina at Chapel Hill, M.S., Marine Sciences (1998)

University of North Carolina at Chapel Hill, B.S., Geology (1992)

### **Bar Admissions**

North Carolina

Pennsylvania (inactive)

### **Court Admissions**

U.S. Court of Appeals for the Fourth Circuit

U.S. District Court for the Middle District of North Carolina

U.S. District Court for the Eastern District of North Carolina

U.S. District Court for the Western District of Pennsylvania

### **Clerkships**

U.S. District Court for the Middle District of North Carolina – The Honorable Frank W. Bullock, Jr., Chief Judge