

FINAL REPORT: SEASIDE SAMP PROJECT TEAM ADMINISTRATION AND HABITAT DISTRIBUTION AND SUITABILITY ANALYSIS

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Executive Summary:

The purpose of this project was to evaluate natural habitats and resources on the seaside of Virginia's Eastern Shore and create a consensus building process that would result in public education and recommendations for regulatory and other guidelines to: 1) increase the economic productivity of the system; 2) enhance the health of the overall system; 3) anticipate and help resolve existing and future use conflicts. The project team included representatives from state agencies (Virginia CZM Program, VIMS, VMRC), the Accomac-Northampton Planning District Commission (A-NPDC), The Nature Conservancy, Virginia Eastern Shorekeeper, and the clam aquaculture industry (HM Terry Company and JC Walker Brothers). Aerial surveys, compilation of diverse, existing data sources, GIS and other spatial planning tools were employed. Information and recommendations were provided to regulatory and legislative decision makers, public presentations were created and meetings were convened. (See FY 2010 Task 96.01 for final PowerPoint presentation.)

Analysis of current clam, oyster, eelgrass and water bird nesting and foraging habitats, along with a cursory evaluation of recreational uses on the seaside revealed no major conflicts between these resources and human utilization, or between user groups, and concluded that current uses are compatible.

The Project Team also evaluated the current "Baylor Grounds" based system of allocating state owned bottom for oyster and clam aquaculture to public and private (lease-hold) users. This evaluation was done in conjunction with an analysis of changes caused by barrier island and marsh migration, erosion and other dynamic alterations in the configuration of the seaside bays since the Baylor Survey was completed in the 1890's. These alterations have been substantial and are significant system-wide resulting in nearly 40% of Baylor grounds allocated for oyster production in the 1890's no longer being suitable for that use in 2012. The Project Team also concluded that, while the *process* of allocating leases followed by the state is fair, transparent and effective, the Baylor survey boundaries used to make these allocations are no longer as relevant to their original purpose as they should be given shifts in the location of oysters, islands and marshes.

Seeking to update and make allocations of state bottom more efficient and protection of valuable natural resources more effective for aquaculture, wild harvest and long term ecological productivity, several legislative initiatives were proposed in the 2010-2012 time frame. During the 2012 session of the General Assembly, Senator Northam introduced Senate Bill 550 to implement recommendations made by a VMRC study panel on this issue. The Project Team provided information to the Study Panel and also, under A-NPDC leadership, held two public meetings to present the findings of the Project Team. The bill authorized VMRC to adjust boundaries of public oyster grounds on an as-needed basis and as agency resources allowed. Any changes would require an open public process that would provide input into the decision-making process. Also, VMRC would be required to use the best current information available regarding the location and extent of natural shellfish beds and potential oyster habitats on the seaside, and rely on the Baylor survey as the default boundary in the interim.

Senate bill 550 passed the Senate of Virginia unanimously. No concerns of citizens or legislators were raised during the process. In the House Committee on Agriculture, Chesapeake and Natural Resources several citizens from the Eastern Shore expressed concerns and requested more time to understand the bill's implications. Some expressed a preference for the current fixed boundaries, and wondered if the aquaculture industry would be favored in the process. Most were willing to continue to discuss the bill over the next year. The Committee decided to "carry over" the bill. Given past practices, however, it is more likely a new bill will be introduced in the next session.

Public Input Sessions:

At its February 22, 2012 meeting, the SAMP Project Team established the Public Input Committee to organize and prepare materials for stakeholder outreach and public education meetings regarding the findings of the SAMP Team. The Project Team coordinated scheduling with the Study Panel that was empowered by Senate Joint Resolution 330 of the 2011 state legislature to evaluate the current system for allocating resources on the seaside. The Project Team concluded that fall of 2012 would be the most effective time for the information gathered by the SAMP process to be presented to the public. Curt Smith (A-NPDC) was charged with lead responsibility and would give the presentation, compile input from attendees and prepare a report on the outcomes (see FY 2010 Task 96.01). Steve Parker (TNC), Mark Luckenbach and Marcia Berman (VIMS) and Laura McKay (VA-CZM) would assist with preparing a draft power point presentation, and recommend media messages, outlets, budget and schedules to advertise the meetings. These recommendations would then be reviewed and approved by the full SAMP Project Team. In addition, the Project Team would engage in personal outreach to promote these Public Input sessions.

The SAMP Public Input Committee met June 23, 2011 at the VIMS lab in Wachapreague to review the initial power point and other public session concepts, formats and messages, and determine strategies to ensure participation by stakeholder groups, local decision-makers and the general public. The main points to be made in the presentation were the strong science that demonstrates the incompatibility of the Baylor survey with modern clam and oyster culture techniques and to use geospatial mapping to clearly show how dynamic habitats are on the seaside and how much the seaside has changed since the survey was done. Other goals of the presentation were to explain the roles of SAMP and the Study Panel, to educate the audience on the constitutional background of fish and shellfish protection in the Commonwealth, and to highlight the value of oyster and SAV restoration, as well as the benefits to the local community and economy of recreational uses such as sport fishing and ecotourism.

It was decided to call the public input sessions "Workshops" to emphasize the information, open nature of the events and to help engage and stimulate public participation and feedback. The ultimate outcome of the Workshops was to solicit input from an informed public and to compile that input into a report that was available and useful to stakeholders, decision makers, the Study Panel and the general public. Providing the audience with three different "alternative solutions" from which to choose was also seen by the Public Input Committee as a way of

facilitating and simplifying feedback and to keep the audience focused on the specific issues being evaluated and information presented. The draft power point was set up in a context of a historical narrative to highlight the constitutional context; the changes in both human uses of the seaside and in the geomorphology of the barrier island system itself, and the broad extent of multiple uses and economic values of a healthy productive ecological system.

On June 29th, a full meeting of the SAMP Project Team at the Eastern Shore of Virginia National Wildlife Refuge was attended by 12 members. It was timed to precede a meeting of the Study Panel at the same location later in the day so that the Panel could benefit from information provided by the SAMP Team. Berman (VIMS) provided an update on new information relating to her inventory of shoreline habitats and ecological conditions on the seaside. The completion of mapping of proposed state oyster restoration sanctuaries and an estimate of the existing oyster population were also added to the information available. The draft power point was reviewed and modified by the Team, slide by slide. To determine the three “alternative solutions” to be presented for public reaction and input, the Project Team reviewed proposed policy changes that were generated earlier in the year as follows:

1. The Virginia Marine Resources commission, possibly with the advice of an advisory board, should be granted the authority to reclassify public shellfish grounds (including adding new areas from currently unassigned bottom) and on a case by case basis re-evaluate the appropriate uses of areas currently designated as Baylor grounds
2. Explore if there are locations that need to be set aside for a long period of time for a particular use and ensure they are protected for that use and their boundaries are clear. Allocate the space to those percentage uses by convening a panel of experts to make the recommendations, a public hearing to gather comments and finally adoption of the plan by VMRC.
3. Explore administrative procedures which VMRC can implement which would add flexibility in defining lease boundaries. The current leasing system provides very little flexibility in managing a dynamic system; there is little funding available for science, management and enforcement; there is also currently a dis-incentive to maximize output on leased grounds because leases are so cheap.
4. Increase stakeholder awareness regarding importance of preserving natural systems for both economic and conservation purposes.
5. Establish process for review of changing conditions and recognize various uses; re-evaluate use suitability, ecological, economic, community needs & goals with new spatial planning tools and equitable, transparent stakeholder allocation approaches. Climate change and sea level rise, in particular, should be a major consideration in any conservation planning initiative.

6. Gather information on protecting/enhancing ecological productivity and resiliency of system; establish no/low impact areas to maintain habitats, population diversity and genetic health;
7. Monitor and adapt needs, uses, policies, regulations frequently (perhaps every 5 yrs?); use transparent, participatory information-based methodology for use/space re-allocation and conflict avoidance.
8. Determine from best available data what percentage of the Seaside needs to stay in conservation and/or be restored in order to maintain a healthy system in the face of the other desired uses.
9. State should charge annual lease payments sufficient to generate funds for management and enforcement; increase law enforcement staffing at VMRC that is necessary to protect and manage marine resources; develop dedicated funding (user fees, licenses, tourism tax) for state to flexibly research, implement, monitor, regulate and revise management and use allocations.
10. Monitor and adapt needs, uses, policies, regulations frequently (every 5 yrs?); use transparent, participatory information-based methodology for use/space re-allocation and conflict avoidance.

The SAMP Team discussed and evaluated these proposed modifications and selected three “suggestions” for changes in regulatory policies or procedures to present to the public for their input:

Suggestion 1: Re-survey and redefine appropriate boundaries of all commercial, recreational & natural resources at 5 or 10 year intervals.

Suggestion 2: Recommend and designate spatial allocations for different uses based on suitability and percentages of bottomlands.

Suggestion 3: Authorize VMRC, with the assistance of a local advisory committee, to refine the boundaries of all commercial, recreational and natural resources. Evaluate applications based on suitability analysis and requiring public notices and public hearings on a site-specific basis.

The format, audience, frequency and location of the Workshops were also discussed. Consensus was reached that there should be two large meetings, one in Northampton County and the other in Accomack County, sometime in November or December. The SAMP Team would try and coordinate timing with the Study Panel. It was also determined that ads for each meeting would be run in the Eastern Shore News and a list of over 200 stakeholders and decision makers was created for direct mailing of notifications.

During August, September, October and November of 2011, meetings and conversations between Public Input Committee and SAMP Team members took place to finalize the agenda for the Workshops. In addition, the content and esthetics of the power point presentation were fine-tuned and finalized. The two sites for the Workshops were also chosen and specific times selected (Thursday, December 8, 2011 from 6:30 to 8:00 PM at the Barrier Island Center in Northampton County and Tuesday, December 13, 2011 at the Eastern Shore Community College in Accomack County). Finally, ads were placed in the Eastern Shore News and over 200 letters mailed out to individual stakeholders and decision-makers.

The attendance and results from these Workshops was compiled for the SAMP Project Team by A-NPDC and the report passed along to the State Study Panel by late December. The Panel was not charged with holding public meetings and attached the SAMP Workshop Report in the Appendix of the document sent to the legislature. The Study Panel utilized the SAMP Input in its report as follows:

“ Upon receiving this report in late December, 2011 the panel co-chairs carefully reviewed its findings and are confident that the panel recommendations below address the majority, if not all, of the concerns raised [regarding suggested changes in policies or procedures] during these public meetings. Many of the objections raised during the public meetings were related to components in the options that the study panel had considered, but rejected, and do not appear in our recommendations below.”

The recommendations made by the Study Panel and based on the scientific information provided and the public input resulting from the SAMP Team’s work led to Senator Ralph Northam submitting Senate Bill 550 to the legislature in January of 2012. Senator Northam’s legislation contained recommendations made by the Study Panel and the SAMP Project Team. The bill unanimously passed the State Senate, with no adverse public testimony. In the House, there was testimony that showed some stakeholders were unsure of the impacts on their livelihoods that the legislation might cause, as well as concerns about the loss of public grounds. As a result, the bill was “carried over” until the 2013 session of the legislature. Most recently, Delegate Lynwood Lewis of the Eastern Shore held a fact finding and informational meeting to determine what action might be taken in the next legislative session.

The SAMP Project Team’s worked played a significant role in guiding public process and policy making regarding the seaside’s diverse, dynamic habitats, the impacts of current spatial allocations and regulatory policies, the multiple uses and stakeholders active in utilizing the seaside, and the ecological productivity of the valuable marine resources that benefit the local community and the Commonwealth.