

October 21, 2004

Mr. Lawrence W. Hedges, Manager
Non Point Source Program
4220 International Parkway
Suite 101
Atlanta, Georgia 30354
By email and hard copy

RE: Comments for Proposed E & S Rule amendments to rule 391-3-7-.05, "Buffer Variance Procedures and Criteria"

Dear Mr. Hedges:

The Altamaha Riverkeeper organization appreciates the opportunity to present these comments for consideration in the proposed E & S Rule Amendments referenced above. As you know, our organization works to protect and restore water quality and flow throughout the Altamaha watershed. This includes the Oconee, Ocmulgee, Ochopee, and Altamaha Rivers as well as the Altamaha's estuary and delta. The majority of our comments here focus on the need for special consideration of buffer requirements as they relate to the critical influx of fresh water into the salt-water ecosystem.

In addition, we ask that you consider our overall concerns with the proposed amendments as they relate to our experience within our 14,000 square mile watershed. We are concerned that the rules as written cannot be properly implemented with the limited resources available to EPD. Our experience has shown that EPD's limited resources make it difficult to implement existing rules and regulations and therefore we question where the resources will come from to implement the amendments as proposed. We respectfully request that any new rules be written to ensure that EPD has the resources to effectively review water quality data, to ensure that water quality is protected and to allow EPD to effectively monitor and enforce the proposed variances.

The following comments relate specifically to our concerns within the coastal environment.

Definitions: ***"Water Quality" means the chemical, physical, and biological characteristics of the State's water resources.***

- 1- **(Comment)** There is nothing in the document relating to salt marsh hammocks and their freshwater streams. Even though most streams on marsh

- 2- hammocks would be classified as intermittent they are extremely valuable to “*water quality*” in the estuarine waters and salt marshes.
- 3- **(Comment)** There is also no mention of the salt water, fresh water interface in this document. There are hundreds, if not thousands of salt/freshwater interfaces along Georgia’s salt marsh coast. These some times small interfaces are valuable to marine aquatic species as part of a very complicated food web. These are the areas where mosquito’s and sand gnat’s lay their eggs. These eggs and their larvae are extremely important as integral parts of the food web for grass shrimp, brown shrimp, blue crabs and fin fish.
- 4- **(Comment)** There is also no mention in the document of timing for the receiving waters of storm water run off entering the estuarine areas. The timing of freshwater entering the estuarine systems is critical to water quality and the marine food web.
- 5- **(Comment)** The Altamaha Riverkeeper, Inc. (ARK) believes that the proposed SB 460 rules as written are not protective of Coastal Georgia’s annual, several hundred million dollar tourism, commercial, and recreational fisheries industries. The economy of coastal Georgia now revolves more around those industries than the once all-important timber and pulp industry. Because our economy and future rely so heavily on our recreational interests in natural resources we simply must do more to protect them. Development is important, but without our natural resources we simply would not be seeing the economic boom we are now experiencing in coastal Georgia.

Coastal Georgia’s economic future depends on how we care for and protect our natural resources today.

From the proposed rules:

Subparagraph (2) page 5; Variance applications will be reviewed by the director only where the applicant provides evidence that impacts to the buffer have been avoided or minimized to the fullest extent practicable and only in the following cases:

Subparagraph (2)(h) page 6; For non trout waters, the land disturbing activity within the buffer will require a permit from the United States Army Corps of Engineers under Section 404 of the federal Water Pollution Control Act Amendment of 1972, 33 U.S.C. Section 1344, and the Corps of Engineers has received a mitigation plan to be implemented as a condition of such a permit;

(Comment) The proposed SB460 rules have no provisions for oversight or checks and balances in secondary streams (intermittent streams) entering the salt marsh. (see exhibit 1) The Coastal Resources Division (CRD) does the salt marsh jurisdictional line. During this process each stream entering the salt marsh should be marked on a map and this map should be checked against the developer’s site plan to insure that each stream entering the salt marsh and its buffer is protected.

Subparagraph (3) page 7; If the buffer impact will be temporary:

(Comment) Subparagraph (3) needs to be strengthened. The language needs to say “shall be inspected prior to the beginning of work and after the work is completed”.

Page 8 Subparagraph (3) (h) Proposed mitigation, if any, for the buffer disturbance and a restoration and revegetation plan.

(Comment) Sub Section (3) (h) needs more of an explanation. It would appear that if a mitigation plan is needed you may have more than a temporary buffer impact. “**This is the beginning of an enforcement nightmare**”.

Subparagraph (4) Page 8: If the buffer impact will be permanent, the buffer variance request shall include all of the information in subparagraph (3) above, with the exception of (3)(h). A buffer variance request with permanent impact shall also include the following additional information:

(4)(b) A buffer mitigation plan addressing impacts to critical buffer functions, including water quality, floodplain, watershed and ecological functions based on an evaluation of existing buffer conditions and predicted post construction buffer conditions pursuant to Section (7)(c) herein.

(Comment) This mitigation plan should address the fresh/salt water interface conditions; for instance, elevation and soil condition(s) (types) at the interface. E & S rules have been written to protect streams and their floodplains from being altered by all pollutants including and especially sediment. It is very important not to alter the soil content and the elevation of the soil at the mouth of streams and the surrounding salt marsh with sediments. If this happens the integrity and characteristics of the hydrology surrounding salt marshes becomes altered. In turn, this altered soil elevation can alter the hydrological flow regimes of the in and out flows of the salt marsh for unknown distances. This altered hydrology has the potential to upset feeding and spawning habitat for marine animals accustomed to using this habitat permanently.

Alteration of the soil types and characteristics could have extremely negative impacts to the benthic community living in and on top of these wet areas. In this respect I am relating to the changes that may take place by replacing and building up of the natural marsh mud with upland soil types. (see Exhibit 2)

(4)(c) A plan for storm water control once site stabilization is achieved, where applicable.

(Comment) Reference ARK comment number 3 at the beginning of this document. What is the developer going to do to prevent disruption (alteration) of the timing of the freshwater entering the salt marsh/estuarine system?

Subparagraph (5) Upon receipt of a completed application, in accordance with sections 3 or 4 the Division shall consider the completed application and the following factors in determining whether to issue a variance:

(5)(d) Whether alternative designs, such as the use of retaining walls, are possible which do not require buffer intrusion or which require less buffer intrusion:

(Comment) Reference ARK comment number 3 at the beginning of this document. Retaining walls should never be allowed because they funnel or channel water in a given direction. The channelization of water clearly alters the natural flow, therefore it would alter the timing of the water entering the salt marsh estuarine system. Retaining walls could also create new ditches in the salt marsh, thereby altering the hydrology and ecology of the surrounding salt marsh ecosystem. Retaining walls should never be used to alter the natural evolutionary changes of the landscape.

(5)(g) 2. *The hydrologic function of the buffer:*

(Comment) Reference ARK comment number 3 at the beginning of this document. The hydrologic function of a buffer is extremely critical to the natural flow and timing of the runoff water entering the receiving stream (salt marsh estuaries). See ARK **comments** in subparagraph (4)(b).

Final Comments;

After careful review of the SB 460 proposed rules the ARK believes that the SB 460 rules proposal should be amended to incorporate these comments. Due to the absolute fact that freshwater and salt water regimes are not the same, SB 460 falls far short of protecting marine species in the salt marsh estuarine system(s).

The need for and timing of freshwater received in the estuaries is extremely critical to a healthy salt marsh ecosystem. The proposed SB 460 rules in no way protect this vital ecological function to marine organisms.

The piping of storm water to the salt marshes is extremely negative and disruptive to the timing needed for freshwater entering the salt marsh ecosystem.

Retaining walls (revetments) can also have negative impacts to the salt marsh ecosystem and combined with piping storm water even adds to the detrimental impacts to the salt marsh ecosystem. (see Exhibit 3)

The mix of salt/freshwater is an extremely complicated, intricate net working system that many believe has already been too negatively impacted by humans and the need for policy makers to reverse these impacts are critical. SB 460, if revised to reflect better protection for salt marsh ecosystems could be a very positive step forward to hold the line on these impacts, so to speak.

In closing, we thank the EPD for giving the Altamaha Riverkeeper organization the opportunity to comment on this extremely important issue. If you have questions or comments about our concerns, please feel free to contact me at 912-437-8164.

Sincerely,

James Holland
Altamaha Riverkeeper

Attachments: Photos attached with hard copy