



**Mobile Bay National Estuary Program
Government Networks Committee**
March 22nd, 8:00 am – 9:30 am



**International Trade Building
250 N. Water Street
Mobile, AL 36606**

Virtual Meeting Link

<https://disl.zoom.us/j/81503322750?pwd=DPb845jYTrFzLgOYlSpacBeUSjjFsc.1>

Agenda

Meeting Objectives:

- a) Provide status of State projects and priorities
- b) Review CCMP Technical Assistance and Capacity Building strategies
- c) Review regulatory updates impacting natural resource protection in coastal Alabama

1. Welcome and Introductions

GNC Co-Chairs:

Commissioner Skip Gruber, Baldwin County

Commissioner Merceria Ludgood, Mobile County

2. Review and Approval of Minutes

3. Old Business

- a) State Update
- b) MBNEP update

4. New Business

- a) Waters of the United States - Lee Yokel, Ecosolutions
- b) The Role of County Zoning in Environmental Protection – Ashley Campbell, Baldwin County
- c) Announcements

5. Adjourn

Minutes

In attendance: Joseph Abston, Washington County; Matt Anderson, City of Mobile; Scott Bannon, MRD; Chris Blankenship, ADCNR; Barry Broadhead, City of Chickasaw; Jeff Collier, Town of Dauphin Island; Jennifer Dimaio, USEPA; Leslie Gahagan, City of Foley; Charles "Skip" Gruber, Baldwin County Commission; Ralph Hellmich, City of Foley; Frances Holk-Jones, AL House of Representatives; Veronica Hudson, City of Saraland; Amy Hunter, ADCNR; Jessi Ward, City of Daphne; Merceria Ludgood, Mobile County; Patti McCurdy, ADCNR; Shannon McGlynn, ADEM; Caleb Harper, City of Spanish Fort; Laura Smith, AL Soil & Water Conservation Committee; Nicole Love, City of Fairhope; Chris Thomas, USEPA; John Valentine, DISL; Margie Wilcox, AL House of Representatives; Ashley Campbell, Baldwin County; Lee Yokel, EcoSolutions; Chasity Piper, SARPC

Staff: Roberta Swann, Bethany Hudson, Vanessa Romero, Blair Morrison, Christian Miller

Takeaways

- **The MBNEP is beginning the process of updating the Comprehensive Conservation & Management Plan and will be working with all Management Conference Committees, including the GNC, on updating strategies and developing action plans.**
- **The US Supreme Court ruling in Sackett v. EPA changed the definition of "Waters of the US" and has a potential to negatively impact wetland protection efforts moving forward.**
- **Baldwin County's zoning authority provides opportunities for increased regulatory protections for critical habitat. In unzoned areas, current State flood protection requirements provide some limited ability to protect floodplain/wetland areas.**

The meeting was called to order at 8:15. Motion to approve the minutes from the previous meeting was made by Ralph Hellmich and seconded by Margie Wilcox

State Update

- Meeting recording did not capture this portion of the agenda

MBNEP Update

- Christian reviewed the purpose of the GNC, which is to educate elected officials and state/federal agencies on each other's priorities and key issues and discuss how they can collaboratively address shared environmental issues.
- The Management Conference's bylaws have been recently updated. The GNC is open to all elected federal, state, and local public officials; heads of federal and state agencies; and regional administrators.
- Co-chairs for the GNC are permanently appointed by Mobile and Baldwin counties and the committee may make recommendations to the Executive Committee.
- The process to begin development of the next CCMP is currently underway, which will include updated strategies for each conference committee, and should be completed by October 2025.
- The Technical Assistance and Capacity Building strategies that apply to the GNC fall under Goal 3: "Build Capacity of Local Governments to Manage and Enhance Coastal Environmental Resources"
- The Clean Water Future Campaign has a lot of tools that aid municipal and county resource managers- including a library of videos on topics ranging from stormwater management to MS4 requirements and also a comprehensive regulatory review that has aided in understanding and improving the regulatory environment in coastal AL.

Waters of the US

- The determination of what qualifies as “the waters of the United States” (WOTUS) has been updated through a recent US Supreme Court ruling “Sackett v. EPA” in May of 2023.
- Related to a case in Idaho which dealt with the filling of wetlands, it was determined that the wetlands in question on the Sackett’s property do not fall under federal jurisdiction which has a potential to limit the scope of federal wetland protection going forward.
- Although the ruling did not change the definition of what a wetland is, it did lead to revisions to the definition of what constitutes “Waters of the United States” and had led to some confusion over whether or not individual wetlands may or may not be considered “jurisdictional” and under federal purview.
- Federal wetland protection and permitting falls under the purview of the US EPA and US Army Corps of Engineers. Further protections may also be put in place at the State, county, and municipal levels which can further complicate the issue.
- Most existing local wetland protection measures refer to jurisdictional wetlands as determined by the US Army Corps of Engineers.
- To be considered a wetland three things are required: water, hydric plants, and hydric soils.
- In the Sackett ruling, SCOTUS held that only wetlands with a “continuous surface connection to bodies that are waters of the United States in their own right so that they are indistinguishable from those waters are protected by the Clean Water Act”.
- This decision may potentially remove protections for wetlands that are separated from traditional waters by natural or manmade structures.
- Potential actions to provide protection to non-jurisdictional wetlands include increasing protection at the State and local levels. Additional avenues to protection are available through wetland protection ordinances, stormwater management, land disturbance ordinances, subdivision regulations, floodplain and nuisance flooding requirements, zoning, building codes.

Role of County Zoning in Environmental Protection

- Alabama is a Dillon’s Rule State with limited home rule with counties only having powers and structures provided by the State legislature
- Some counties have been granted limited powers for growth management activities by the state legislature, which authorizes them to administer certain local affairs and government structure/services so long as they are not in opposition to state law.
- In 1991 the State legislature passed the Baldwin County Planning and Zoning Act which allowed for:
 - Legislation and its subsequent amendments provide the basic framework for the County’s growth management activities
 - The Act authorized the development of the Baldwin County Planning and Zoning Commission and Boards of Adjustment
 - County Commission created planning districts within the unincorporated areas of the County
 - Citizens in planning districts may petition for a vote for their Planning District to come under County planning and zoning authority
 - Requires the development and maintenance of a “master plan” for the use and development of the unincorporated areas of Baldwin County
- The Baldwin County Planning and Zoning Department was established in 1996 to oversee the County’s growth management activities.
- For a planning district to come under the Baldwin County planning and zoning jurisdiction, citizens must petition the County Commission to request a zoning referendum and request a proposed district map, after approval from probate judge and county commission, citizens have 120 days to collect signatures from 10% of the registered voters in the newly proposed district. After the signatures are verified, an election will be held in the district no later than 90 days.

- There are 37 planning districts in the County, 23 are zoned and 14 are un-zoned. Since 2021, there have been 10 zoning requests with 6 passing zoning.
- Ordinance for all zoned planning districts includes wetland and stream overlays requiring 30' wide non-disturbance buffers, construction BMPs for land disturbance, special flood hazard area protections, farmland protection with vegetated buffers, enhanced subdivision regulations.
- Local provisions for planning districts include good neighbor stormwater management practices, native tree protections, native tree planning requirements, enhanced protection of farmlands, wetland fill limited to 1/10th acre (District 26), Fish River and Bon Secour River- 100' setbacks.
- In unzoned planning districts, there are some subdivision regulations, building codes, flood plain management-flood permits in areas with probable exposure to flooding.
- Baldwin County passed a new flood land disturbance ordinance in 2022 (authority granted by Alabama Code Title 11) that allowed to control filling, grading, dredging, or other similar land disturbances which may increase flood damage or erosion; prevent/regulate the construction of flood barriers which may increase flood risk to other properties; control the alteration of natural floodplains, stream channels, and natural protective barriers.
- Any land disturbance within a flood zone or territory with probable exposure to flooding must apply for a County Flood Land Disturbance and Permit and submit a Construction BMP plan, wetland delineation, all State and Federal permits.
- This ordinance was implemented to promote public health, safety and general welfare and to minimize public and private losses on land with probable exposure to flooding, but it also aids in protecting wetlands which in turn helps protect and improve water quality.
- Zoned areas have also been required to provide a buffer around any non-jurisdictional wetlands.
- There were some questions about how these planning districts work with landmark districts, Ralph Hellmich relayed that they were told by the State's Attorney General that Landmark Districts have no regulatory authority.
- Development pressures are primarily what is driving the move to approve zoning in planning districts.

Meeting adjourned at 9:05