

SHAPE OF THE COAST LEGAL SYMPOSIUM: THE NORTH CAROLINA COASTAL
MANAGEMENT CONTEXT

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I. INTRODUCTION

On November 13, 2024, North Carolina Sea Grant hosted the *Shape of the Coast Legal Symposium* in conjunction with the North Carolina Coastal Conference, in New Bern, North Carolina.¹ The symposium was developed with longstanding collaborators at the N.C. Department of Environmental Quality (NCDEQ), the University of North Carolina-Chapel Hill's School of Law, Duke University's Environmental Law and Policy Clinic (a joint venture of Duke University's School of Law and Duke University's Nicholas School for the Environment), private practitioners in North Carolina with expertise in coastal law and policy, as well as a former North Carolina/National Oceanic and Atmospheric John A. Knauss Policy Fellow. New Bern, a riverfront city on the Neuse River, is almost an hour away from the Atlantic Ocean and experienced historic damage during Hurricane Florence in 2018, including ten feet of storm surge. The town continues to recover from these impacts, as well as addressing recurrent flooding impacts, and recently fully reopened their renovated convention center for large groups such as the North Carolina Coastal Conference. New Bern offered an excellent place-based and central location for law and policy professionals from around the state to convene to discuss law and policy considerations affecting North Carolina's coastal region.

In 2006, North Carolina Sea Grant (NCSG) was a founding partner in the development of the *Shape of the Coast Legal Symposium*, a North Carolina focused forum for discussion of marine policy and ocean and coastal legal issues

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¹ See [Shape of the Coast Legal Symposium](#), N.C. Sea Grant (last visited Aug. 26, 2025).

with the state as a backdrop. Thanks to the support provided by the National Sea Grant Law Center, and in partnership with the NCDEQ's Office of General Counsel, NCSG developed new partnerships to increase accessibility for this legal learning symposium held in conjunction with NC's Coastal Conference.

A steering committee² from NC accredited law schools selected eight compelling state and federal legal topics and recommended potential session leaders for each of the eight sessions. North Carolina Sea Grant Law Fellows from Duke University, Universities of North Carolina-Chapel Hill and Wilmington, and Wake Forest University were recruited and invited to the symposium and later assisted session leaders as part of writing teams to complete articles for this edition of the SEA GRANT LAW & POLICY JOURNAL (Journal).

The *Shape of the Coast Legal Symposium* (Symposium) was held November 13, 2024, in New Bern, North Carolina. Over 50 participants, including individuals from state and local governments, law schools, non-governmental organizations, local communities, and consulting firms attended. In the post evaluation survey, participants surveyed noted a high probability of using the information provided in their work.

NC Sea Grant created a web page available [here](#) where participants, Journal readers, and the public can access materials developed and presented at the Symposium. The sessions that yielded papers for this special edition include the following topics relevant to North Carolina's coastal management context: 1) an examination of federal flood insurance policy changes and pending legal challenges to implementation, 2) legal aspects of threatened oceanfront structures

² The authors would like to express their deepest gratitude to the members of the Shape of the Coast steering committee: Anderson Tran, former Sea Grant Knauss Fellow; Kai Hardy, Law and Policy Fellow, Maryland Sea Grant; Michelle Nowlin, Co-Director, Duke University Environmental Law and Policy Clinic, Duke University Law School; Donald Hornstein, Thomas F. Taft Distinguished Professor and Director of the Center on Climate, Energy & Economics, UNC School of Law; Todd Roessler, Attorney, Kilpatrick Townsend & Stockton LLP; Amy Wang, Attorney, Ward and Smith, P.A.; Maria Savasta-Kennedy, George R. Ward Term Professor, Clinical Professor of Law and Director of the Externship Program, UNC School of Law; Lauren Fremin, Project Coordinator, National Sea Grant Law Center; & Catherine Janasie, Senior Research Counsel, National Sea Grant Law Center.

on the Outer Banks, 3) coastal wetlands, 4) understanding legal issues surrounding heir properties in North Carolina, 5) conflicts arising from the allocation of sand for beach nourishment, 6) an update on North Carolina off-shore wind energy development policy, and 7) North Carolina's real estate disclosure laws. Through this introductory article, we will set up the Journal articles stemming from the symposium and note additional information provided during the Symposium's sessions.

II. SYMPOSIUM PANELS AND JOURNAL ARTICLES

The Symposium was kicked off by Mary Lucasse of the North Carolina Department of Justice and Sea Grant Law Fellow Zack Griffin, who set the stage for the sessions to follow by familiarizing the Symposium audience with North Carolina's Coastal Area Management Act (CAMA). CAMA has been the coastal management framework for North Carolina for over 50 years. Lucasse highlighted CAMA's accomplishments:

When I talk about CAMA, I always talk about the fact that this is a balancing statute. This is not about, 'Let's do everything we can to only protect natural resources.' No, we balance the rights of development, the rights of property owners, with the need to protect natural resources.³

A large part of CAMA is its land-use planning component. When CAMA was enacted only a small handful of coastal cities or counties had jurisdictional land use plans and development regulations. By 1993 all 20 coastal counties and 67 municipalities (including 59 cities with populations under 5,000) had adopted plans and had them approved by the State's Coastal Resources Commission. Other components of CAMA include development standards, beach and water access, and the preservation of natural areas.⁴

³ See Jennifer Allen, North Carolina Coastal Federation, [Coastal commission lawyer: CAMA a 50-year 'balancing act'](#), COASTAL REV. (June 24, 2025).

⁴ David Owens, [Reflections on 50 years of the NC Coastal Area Management Act](#), COASTAL REV. (June 24, 2025).

Donald Hornstein of the UNC School of Law, aided by Sea Grant Law Fellows Maggie Caudle and Jacob Dowler, followed the CAMA overview by analyzing the state of federal and private insurance policy and their impact on the North Carolina coast. Hornstein drew upon his long-standing relationship with the North Carolina Insurance Underwriting Association (NCIUA), i.e., the Coastal Property Insurance Pool, which is a tax-exempt association of insurance companies authorized to write essential property insurance coverage in North Carolina to familiarize Symposium participants with this potential source of coverage. The NCIUA was created by law to function as a market of last resort to provide adequate essential property insurance to property owners having insurable property in the beachfront and coastal areas of North Carolina.

In their paper prepared for this Journal edition, the team focuses on the history of the National Flood Insurance Program (NFIP) in the context of Risk Rating 2.0 and the legal, political, and economic challenges to federal flood insurance. Risk Rating 2.0, which became policy in the Biden Administration, attempts to align actuarially fair rates and foster opportunities for private flood insurance competition, potentially leading to a more rational U.S. flood risk policy if states and local communities increase accountability for reducing floodplain development risk.

Julie Youngman and Elizabeth Rasheed of the Southern Environmental Law Center, aided by Sea Grant Law Fellows Mary Peyton Brown and Catherine Hunt Cecelski, examined structures threatened by erosion on the Outer Banks, which has caused homes to collapse in the ocean between May 2020 and November 2024. Their article examines the possibility of North Carolina implementing a program, like those in other states, to fund the removal of imperiled oceanfront structures. The authors detail the unique geology of North Carolina's barrier islands and how accelerating sea-level rise and erosion impact them. The discussion then shifts to the pollution resulting from collapsing homes and failing septic systems along the coast, particularly in Rodanthe, an unincorporated coastal town. The article also reviews current federal and state initiatives, like voluntary buyouts and demolitions, aimed at addressing this issue. Finally, it offers insights into successful strategies for such programs.

Environmental Law Attorney Amy Wang of Ward and Smith P.A. moderated a panel discussion composed of Justin McCorcle of the U.S. Army Corps of Engineers-Wilmington District, Samatha Hamilton of Davis Hartman Wright LLP, and Christian Preziosi of Davey Resource Group, Inc. The panel provided an overview of the legal landscape of the definition of "Waters of the United States" (WOTUS) and offered insights into the 2023 Rule revision resulting from the pivotal *Sackett v. EPA* decision from the U.S. Supreme Court. The expert panel also discussed the application of federal wetlands regulations before and following *Sackett*, including the "Conforming Rule" and the jurisdictional determination process in North Carolina. On the state policy side, the panel touched on the North Carolina Farm Bill, which aligns North Carolina's wetland jurisdiction to meet the WOTUS definition and subsequent efforts to address the jurisdictional elimination of ecologically significant North Carolina isolated wetlands (e.g. Carolina Bays, Pocosins).

In their Journal article, Sea Grant Law Fellows Jessica Hardee and Kaylyn Bryant provide a synopsis of wetland policy in the aftermath of the *Sackett v. EPA*. The paper first explores the historical basis of wetlands protection under the Clean Water Act, tracing legal precedents that shaped *Sackett*. Next, the authors discuss the implications of *Sackett* in North Carolina, specifically considering the North Carolina 2023 Farm Act. Finally, the authors propose recommendations for wetland conservation in the state and the role of local government policy and non-profit advocacy.

Heirs' property is a form of land ownership commonly found in rural Southern African American communities. It typically involves land passed down through generations to numerous descendants, who are considered tenants in common. This often occurs because the original owners, lacking access to or distrusting the legal system, did not create formal wills. As a result, the property is intended to be shared equally among all heirs through intestate succession.⁵ Navigating heirs' property ownership can prove challenging for poor rural communities, as well as an obstacle to recovery after their homes and land are

⁵ RORY FLEMING, JACK WILLIAMS, REBECCA NEUBAUER, AND LISA SCHIAVINATO, N.C. SEA GRANT, [SPLITTING HEIRS: THE CHALLENGES POSED BY HEIRS' PROPERTY OWNERSHIP TO COASTAL RESILIENCE PLANNING](#) (2016).

damaged by flooding or other weather events. The lack of clear property title in an heirs' property may inhibit the ability of the occupants of the house to apply for federal financial assistance after a natural disaster. In this situation, the occupants may have few to no resources to repair damage.⁶

Scott Schang of the Wake Forest School of Law and the Director of its Environmental Law and Policy Clinic moderated a heirs' property panel discussion with property law experts including Charlotte Noel Fox of Craige and Fox PLLC-Wilmington, Mavis Gragg, Chief Executive Officer of Heir Shares, Wilson Green of the Land Loss Prevention Project, and Jesse Williams of the Campbell University Law School. North Carolina provides a distinct case study, due to the high prevalence of heirs' property.⁷ In addition, North Carolina has introduced but failed to adopt the Uniform Partition of Heirs' Property Act, which is a model statute designed to reduce involuntary land loss.⁸

For this Journal edition, Sea Grant Law Fellow Emily Mahon outlines a discussion of heirs' property, beginning with its definition and its challenges. The article then investigates the cultural significance of this land and need for solutions that respect communal family ownership. Finally, the article examines how one tool, conservation easements, could be used to prevent land loss, protect cultural heritage, and encourage sustainable land use practices.

The Symposium concluded with a one Continuing Legal Education credit hour session comprising three concise presentations. Todd Roessler of Kilpatrick Townsend presented on "Sand Wars," i.e., the legal and policy challenges surrounding the allocation of sand resources in North Carolina and federal waters for coastal restoration and beach nourishment projects. During the last century, the beaches of over 475 U.S. communities have been restored with over 1.5

⁶ *Id.*

⁷ See HOUSING ASSISTANCE COUNCIL, [A METHODOLOGICAL APPROACH TO ESTIMATE HEIRS' PROPERTY IN THE UNITED STATES](#) (2023).

⁸ THOMAS W. MITCHELL, TEXAS A&M LAW SCHOLARSHIP, [HISTORIC PARTITION LAW REFORM: A GAME CHANGER FOR HEIRS' PROPERTY OWNERS](#) 65 (Cassandra J. Gaither, Ann Carpenter, Tracy Lloyd McCurty, & Sara Toering eds., 2019).

billion cubic yards (cy) (1.2 billion cubic meters (m³) of sand).⁹ North Carolina is one of the six states, (California, Florida, New Jersey, New York, and Louisiana are the others) that account for over 83% of the total volume of sand placed on beaches.¹⁰

North Carolina coastal management regulations require beach nourishment projects to identify a compatible sand source adequate to the project's scope. Sand from the same source may also be used by other applicants. This approach can and has led to resource allocation challenges. Authors Todd Roessler and Madison Williams, a Sea Grant Law Fellow, explore the legal and policy frameworks for sand resource allocation in North Carolina and federal waters (which are three or more nautical miles offshore). They also examine the roles of state and federal agencies and provide recommendations for management of these crucial resources.

The outer continental shelf of North Carolina supports some of the best conditions for potential offshore wind energy along the Atlantic seaboard. The offshore wind industry is expected to create a significant supply chain and jobs in North Carolina. To drive this economic impact, the state has set ambitious goals for offshore wind development. Jennifer Mundt, the North Carolina Department of Commerce Assistant Secretary for Energy and Infrastructure, discussed the status of North Carolina Wind Energy Areas and provided a look at the Bureau of Ocean Energy Management renewable energy development process. Sea Grant Law Fellow Kaitlin Beckom authors the accompanying article, which offers a scientific and legal analysis of offshore wind, focusing on the Atlantic Coast. *Going with the Wind: The Future of Offshore Wind* covers the technology, energy output, and roles of federal and state entities in these projects, concluding with strategies for responsible development and compliance.

The North Carolina Residential Property Disclosure Act (N.C.G.S. 47E) requires sellers of residential property (i.e., 1-4 dwelling units) to disclose known

⁹ Nicole Elko et al., *A century of U.S. beach nourishment*, 199 OCEAN & COASTAL MGMT. 105406 (2021).

¹⁰ *Id.*

conditions and defects to potential buyers. This is done through a Residential Property Disclosure Statement, developed by the North Carolina Real Estate Commission (NCREC). The seller must complete and deliver the form to the buyer no later than the time the buyer makes an offer. Christine Goebel of the North Carolina Department of Environmental Quality and Elise Coby, Sea Grant Law Fellow, provided background on real estate disclosure law in North Carolina and efforts that began over 20 years ago to incorporate disclosure of coastal hazard risk into the Residential Property Disclosure Statement. The latest effort to include coastal hazard risk on the disclosure form has been filed by the Southern Environmental Law Center on behalf of several clients through a Petition for Rulemaking in 2022. In 2023, the NCREC voted to adopt a revised form with several additional flood hazard disclosures, but the revision only requires that property sellers disclose flood hazard information and not other coastal hazard information. In their article *Closing in on Coastal Hazards on the North Carolina Real Estate Disclosure Form*, Goebel and Coby speculate what a North Carolina Hazards Disclosure inclusive of all coastal hazards might look like.

We are grateful to the National Sea Grant Law Center and the Journal for supporting the Symposium and helping our program build a group that could collaborate on future legal and policy learning opportunities for North Carolina audiences.