

“Marine Leasing on South Carolina’s Coastal Submerged Lands: Potential Options and Considerations for Commercial and Conservation Strategies”

Jessica Berrio,
Research Assistant, South Carolina Sea Grant Consortium

Ms. Berrio described her thesis project, working for South Carolina Sea Grant. Her thesis question: How does SC currently manage submerged land what could we borrow from others? She found a document published by the Rhode Island Coastal Resources Management Council very helpful.

As background, the state has 196 miles of ocean front and 5,000 tidal wetlands to manage. The definitions of coastal zone and critical areas were given. The state owns to the mean high water mark and out 3 miles; also recognizes the Public Trust Doctrine (PTD). Ms. Berrio narrowed her focus to consider specifically the leasing of submerged lands, and discovered the following.

With regard to shellfish harvesting:

- No leasing program exists; rather a licensing program for shellfish harvesting and aquaculture.
- Exclusive area license is granted for industry, for commercial purposes.
- Areas of shellfish grounds –
 - 20 private shellfish grounds covering 100 acres; charge users at \$10 per residence
 - 62 state shellfish grounds account for 222 acres
 - Shellfish culture permits cover 1800 acres; permits mostly for oysters and clams
- Private grounds: annual fees run \$5/acre; licensing requirements for specific area needed; additional fees are charged for mechanical vs. non-mechanical harvesting.
 - Planting quotas of 20 bushels/yr have been established

Marinas represent other permitted activities.

- Commercial and community docks 250 ft +; marinas are not charged above but fees are higher for community docks
- Conversions from traditional leases to condo sales occurring, creating “dockominiums”
- Leasing/selling of these dockominiums is big business, range from \$50,000 - \$500,000; but question remains, are they legal?
 - Permit does not grant ownership to land (but no lawsuits brought yet)

Ms. Berrio also reviewed conservation leasing case studies, e.g., Port Susan Bay in Washington.

- Types of leasing options created: exclusive area lease up to 30 years, shorter term leases, and conservation easements
- NC-Pamlico Sound: smaller scale leasing
- NY-Great South Bay: creating partnerships to help with costs; e.g., TNC partnership to help restore large area
- Idea is still young; she hopes SC will adopt some of these leasing options
 - Potential to use in degraded or poor water quality areas
 - Restricted shellfish classification areas

She also looked at the Gulf Coast and Southeast states:

- Most have a lead and support agency
- Most have a fee system in place (TX \$850/acre, LA at current market value, AL uses a bidding process, etc.)
- Water bottoms, marinas, aquaculture are managed by lease; also by easements and right-of-ways
- Lease revenue supports: restoration/coastal programs and general state fund; state treasury for waterways improvement fund

She also researched leasing for private uses: specifically, compensating the public and addressing profits being made by private entities.

Ms. Berrio concluded that South Carolina needs to better regulate coastal activities: to prioritize activities, consider user conflicts, and consider potential future uses (such as oil and gas, wind farms, etc.)

- Submerged Lands Inventory is needed in SC; identify current status of PTD and use current technology
- Consider public and various stakeholders (educate and involve)
- Specify leasing activities: extraction, commercial/industrial uses, aquaculture, etc.
 - Base on marine acreage
 - Address conservation activities

General Fee System:

She discovered fees are based on several methods: annual, bidding, royalties, current market value, appraisal, incentive plans, fee installment plans, general credit system (those who help collect data, for example), and conservation.

Fees are used for the state general fund and/or conservation programs. Lease terms vary, as follows:

- Length: Short-term, long-term and/or activity dependent; renewable, re-evaluations, violations
- A number are issued for each activity: marine acreage, moratoriums, where can occur
- Regulating agencies: lead plus support

Conclusions:

South Carolina is the only state without a submerged lands leasing policy. It is up to state General Assembly to determine the efficiency and effectiveness of such a policy and bring legislative changes.

Recommendations for South Carolina:

Conduct a survey, educate and involve the public; conduct legal analysis; conduct economic analysis; determine if conservation leasing should be considered; use information/models from other states.