

JAMES CITY COUNTY WETLANDS BOARD
November 14, 2007

A. ROLL CALL

ABSENT

John Hughes
Henry Lindsey
Larry Waltrip
William Apperson
David Gussman

OTHERS PRESENT

Elizabeth Gallup, VMRC
County Staff

B. MINUTES – ~~August 14, 2007~~

The September 12, 2007 Work Session minutes were approved as presented.
The September 12, 2007 Board Meeting minutes were approved as presented.

C. PUBLIC HEARINGS

1. W-25-07: Vanasse Hangen Brustlin, Inc – Spencer's Grant – shoreline stabilization

Pat Menichino presented the following case:

Mr. Chris Frey, Vanasse Hangen Brustlin, Inc. (VHB), applied for a Wetlands permit on behalf of Busch Properties Inc. to install approximately 4,000 cubic yards of sand fill as beach nourishment landward of the breakwaters, and to extend two existing armor stone breakwaters. The western breakwater would be extended by 130 linear feet and the eastern breakwater by 50 linear feet, totaling 180 linear feet of new breakwaters using class 3 armor stone.

The application includes information for review concerning work proposed for the backshore area that includes sand fill, 1300 linear feet of backshore armor stone revetment and significant slope grading. This work is proposed at an elevation that places it outside of the Wetlands Board's jurisdiction and within the jurisdiction of the Chesapeake Bay Board. The applicant was seeking separate approvals, from each respective Board.

The property is further identified by James City County Real Estate as PIN #'s 5030100004 & 5030100005. The project site is located on the James River. Mr. Frey and Busch Properties Inc. were advised to attend the Wetlands Board meeting on November 14, 2007.

The Environmental Division staff visited the site on August 7, 2007, along with representatives from VMRC and VIMS to discuss the project scope and potential impacts. Impacts to the Intertidal Beach Community are 10,410 sqft and 26,500 sqft to the subaqueous bottom. In addition there will be 30,800 sqft of sand fill added to the backshore area to facilitate the planting of *Spartina patens* and other wetland type grasses. There will be a net increase of 450 sqft of Intertidal Beach Community because of the sand fill beach nourishment. Total fill impacts for this project are determined to be 0 sqft.

To offset any impacts to existing vegetation along the shoreline the applicant has proposed to install 97 trees and shrubs in three areas along the backshore. In addition, the applicant proposes to create a 30,800 sqft area planted with *Spartina patens* and other wetlands type grasses.

It is the staff's recommendation that the Board approve this application with the following conditions:

1. Prior to any land disturbing activities, a preconstruction meeting will be held on-site.
2. The limits of clearing and construction, areas to be protected along the backshore shall be clearly identified and flagged in the field prior to the preconstruction meeting.
3. A turbidity curtain will be installed prior to the preconstruction meeting for this project.
4. The implementation of the RPA planting plan for trees, shrubs, and the installation of *Spartina patens* and *alterniflora*, and other beach grasses shall be guaranteed by surety in a form and amount acceptable to the Environmental Division(Division) and County Attorney prior to the preconstruction meeting. The surety shall be held for one full year following the initial installation and inspection of the plant material. All plant material must be alive and thriving as determined by the Division at the time of the one-year anniversary inspection. If during the anniversary, inspection plant material is determined to be dead, diseased or missing then the surety will be held until all planting material required by the plan is installed and thriving.
5. All trees and understory trees proposed for installation shall be a minimum of 6' in height or 1" in caliper.
6. The applicant shall arrange for weekly project inspections to be performed by a qualified independent professional. The weekly inspection reports generated shall be submitted to the Division to insure that the project is being constructed in accordance with the approved plan, the Wetlands permit conditions, and in compliance with specifications and requirements of the Division, Virginia Marine Resources Commission, and Virginia Institute of Marine Science. These reports will be submitted directly to the Division within 48 hrs following each inspection. The applicant must provide the name of the person or firm, who will perform said inspections, prior to the preconstruction meeting.
7. The permit shall expire November 14, 2008. If an extension of this permit is needed, a written request shall be submitted to the Division no later than two weeks prior to the expiration date.

Mr. Hughes asked for staff's opinion on the Virginia Institute of Marine Science (VIMS) report (copy attached) regarding the need for the entire scope of the project.

Mr. Menichino stated VIMS was concerned with the landward area of the project and the areas behind the existing breakwaters.

Mr. Lindsey stated he agreed with the VIMS report and felt much of the erosion in the area was not coming from the river.

Mr. Waltrip stated he believed the area was dangerous because of the sheer slopes and for safety reasons the area needed to be stabilized.

Mr. Hughes opened the public hearing.

A. Sara Kadec, 3504 Hunters Ridge, and a member of the James City County Citizens Coalition (J4C's), spoke about the comments Dr. Gerald Johnson had emailed to the Board members concerning preservation of the bluffs and asked the Board to deny the application or defer their decision until these concerns could be addressed. Ms. Kadec supplied staff with a copy of Dr. Johnson's comments (copy attached).

At this time, staff presented the Chesapeake Bay Board's exception request for this project, opening the public hearing for both cases to be considered concurrently.

Mr. Hughes stated he understood the Wetlands Board was to consider the armor stone at the bottom of the cliff and the beach nourishment while the Chesapeake Bay Board was to consider the clearing, grading, and construction of the armor stone revetment within the RPA buffer.

B. Boots Johnson, 210 Red Oak Landing, asked why the intrusion was needed at the top of the bluff and why a currently stable bluff needed to be graded.

A. Ms. Kadec stated the extensive mitigation would not be required if the extensive disturbance was not permitted.

C. Chris Frye, VHB, Inc. representing Busch Properties and Coastal Design addressed the comments from Dr. Johnson stating that some of the areas along the shoreline with exposed fossil would be preserved including a large area on the downstream bank and a conservation area. He stated the shoreline stabilization project was needed to prevent erosion on the steep banks and at the toe of the bank. With regard to the Chesapeake Bay exception, he stated the RPA would be restored in areas where the bank was now vertical with no vegetation.

Mr. Apperson asked if the banks would erode to the point where structures in the new subdivision would be damaged.

Mr. Lindsey asked if the purpose of the project was to provide a river view for some of the lots in the new subdivision and asked if the erosion could be prevented from the top of the slope.

C. Mr. Frye stated many of the trees were being preserved and vegetation would be added that would limit the river view. He stated the runoff from the lots would be diverted away from the bank to prevent erosion at the top of the slope.

Mr. Hughes stated he was not convinced the entire scope of this project was needed.

D. Jim Gunn, Coastal Design & Construction, stated this project was proposed to create a long-term stable shoreline and the proposed revetment would protect the shore during large storm events.

Mr. Hughes closed the public hearing as no one else wished to speak.

Mr. Gussman stated he was very concerned with the comments from Dr. Johnson and the historical significance of the area. He asked if the Department of Conservation and Recreation (DCR) was aware of the importance of this site. He stated he wanted more assurances from DCR the scientific community before granting either of the permits.

Mr. Apperson stated he would also like more information from VIMS regarding their report.

Mr. Lindsey asked if the Board decisions could be deferred until further information could be reviewed.

Jennifer Lytle, Assistant County Attorney, stated the applicant would have to request a deferral for the Wetlands case or the Wetlands Board would have to make a decision in 30 days. She stated the applicant could also request a deferral for the Chesapeake Bay exception case or the Chesapeake Bay Board could defer their decision until further information was obtained.

C. Mr. Frye asked for a deferral on both the Wetlands and Chesapeake Bay exception cases until January 9, 2008 to allow the Boards to gather more information and conduct an on-site meeting for this project.

Mr. Hughes reopened the public hearing and made a motion to continue the case until January 9, 2008.

The motion to continue the public hearing for case W-25-07 was approved by a 5-0 vote.

The Board directed staff to set up an onsite meeting with Dr. Johnson, VIMS and DCR to gather additional information regarding the proposed project.

D. BOARD CONSIDERATIONS

1. Calendar Year 2008 Meeting Schedule

All Board members agreed to adopt the 2008 Wetlands Board meeting schedule (copy attached), to be the 2nd Wednesday of each month at 7:00 PM, provided there are cases to be considered.

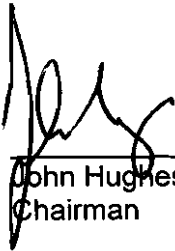
E. MATTERS OF SPECIAL PRIVILEGE

F. ELECTION OF OFFICERS FOR YEAR 2008

Mr. Lindsey moved that John Hughes be reappointed as Chairman. All members were in favor. Mr. Hughes moved that Larry Waltrip be appointed as Vice-Chairman. All members were in favor. It was the consensus of the Board to reappoint Patrick Menichino, Compliance Specialist, as Secretary to the Board.

G. ADJOURNMENT

The meeting adjourned at 8:55 PM



John Hughes
Chairman



Patrick T. Menichino
Secretary

VIMS Shoreline Permit Application Report # 07-1662

APPLICANT:	BUSCH PROPERTIES, INC.
Locality:	JAMES CITY COUNTY
Immediate Waterway:	James River
Watershed:	LOWER JAMES RIVER (TIDAL)
Purpose:	Erosion Control
Application Type:	Wetlands, Subaqueous
Site Inspection:	8/7/07
Report Date:	11/12/07

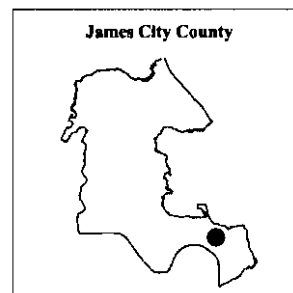


Type of Activity

Proposed Extent

Project Location

Breakwater (ft)	180
Impact Subaqueous Bottom (ft ²)	3710
Fill Subaqueous Bottom (ft ²)	1440
Beach Nourishment (ft)	600
Beach Nourishment (ft ²)	36900
Impact Sand Flat Community (Type XIV) (ft ²)	10400
Impact Subaqueous Bottom (ft ²)	26500
Riprap (ft)	1300
Total Impacts (ft ²)	40610
Total Impacts (Wetlands)	10400
Total Impacts (Subaqueous)	30210
Total Impacts (Beach/Dune)	0
Total Fill (ft ²)	1440



Center for Coastal Resources Management
P.O. Box 1346
Gloucester Point, VA 23062-1346



David L. O'Brien, Director

(804)684-7380, fax: (804)684-7179, <http://ccrm.vims.edu/>

VIMS Shoreline Permit Application Report # 07-1662

NOTE

The Virginia Institute of Marine Science (VIMS) recognizes that the regulatory process considers all aspects of a particular project, including socioeconomic factors. This report, however, only addresses marine environmental concerns.

Findings & Recommendations:

Existing Condition and Erosion Risk

The project shoreline along the James River has two existing breakwaters, with a sandy intertidal and supratidal area and a tall bluff. The sandy shore appears to afford adequate protection for much of the bank. Observations made of the bank upstream of the first breakwater identified few indicators of bank movement such as fallen trees, and soil slumping. The bank downstream showed some signs of movement. There is a notable natural vegetative community on the flat at the base of the bank, perched behind the sandy berm. This community is intercepting groundwater from the base of the bank and providing riparian bird and mammal habitat.

Impacts of Proposed Action

The proposed revetment will sever the connection between riparian, intertidal and subaqueous areas and convert native soils and vegetated areas to non-native rock. The result is a loss in the provision of water quality improvement processes and a change in the benthic community and associated forage animals.

The bank grading will impact about one acre and result in the loss of existing native vegetation and temporary soil disturbance and likely inputs into the waterway.


The proposed breakwater will cause the conversion nearshore shallow waters to rock and sandy shoreline. This will cause a shift in the benthic community and associated forage by crustaceans and shorebirds. The construction of the breakwater will cause temporary water quality impacts and may interrupt sediment transport. Breakwaters are effective in certain shoreline settings and when designed for a shoreline reach.

Recommendations

The preferred approach to shoreline protection for sandy shorelines is to enhance the natural capacity of the sand to provide the desired erosion protection. The critical element of this approach is beach nourishment in combination with a rock structure. The rock structure can be a nearshore sill, or offshore breakwater(s).

The bank grading should be limited to that area necessary to provide a stable slope and should account for the additional protection to be provided by the breakwater extensions and nourishment and plantings. Every effort should be made to avoid impacts to the vegetation on the flat particularly upstream of the first breakwater.

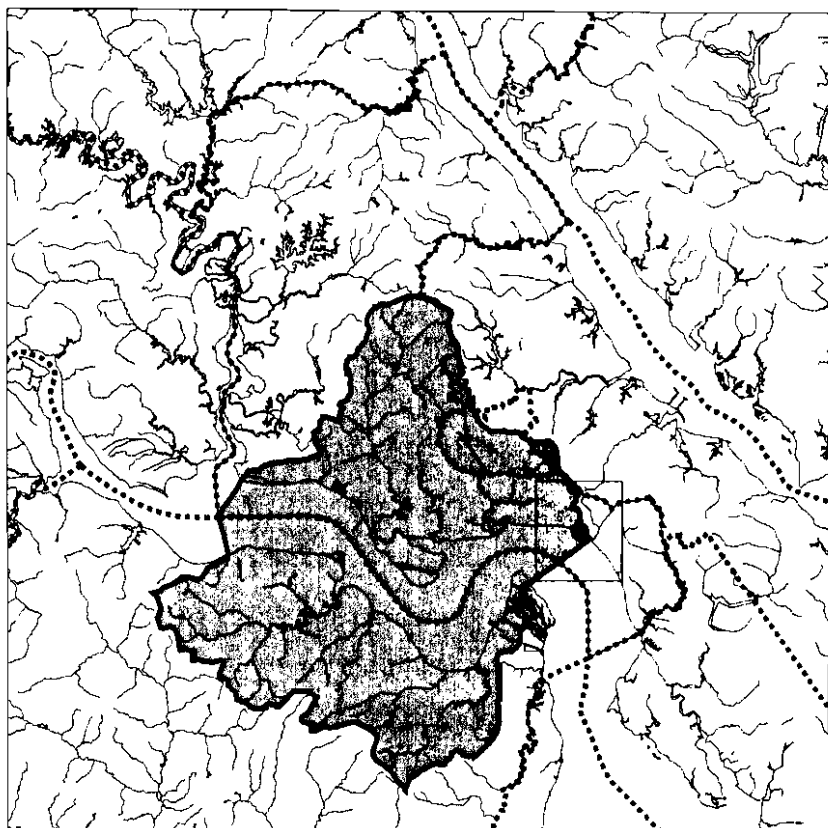
With the combined protection of the increased breakwater length, the beach nourishment and selected bank grading, we question the need for the entire 1300 feet of revetment, particularly in the lee of the enhanced breakwaters.



Pamela A. Mason
Marine Scientist

VIMS Shoreline Permit Application Report # 07-1662

Watershed & Cumulative Impacts Evaluation



- USGS hydrologic unit
- Hydrology
- James City County
- Other locality boundaries
- Permit site
- Permit site study area (see next page)

Hydrologic Units (HU) are smaller drainage areas within a watershed. A **watershed** is the area of land where the surface water drains to a common point.

Wetland Board decisions made by one locality can result in **cumulative impacts** within a watershed shared with other jurisdictions. Cumulative impact is the aggregate of many small individual impacts, where the total adverse impact may be greater than the sum of its parts.

Resource management decisions in this project's watershed are made by:

City of Williamsburg
James City County
Surry County

Permitted Impacts (square feet)

	2004	2005	2006	Year to Date	Current Project
James River					
Vegetated Wetlands	0	0	975	0	0
Non-Vegetated Wetlands	18815	0	9455	22768	10400
Subaqueous Bottom	20037	346400	2480	45062	30210
Beach/Dune	0	0	0	0	0
James City County					
Vegetated Wetlands	4400	2090	1273	0	0
Non-Vegetated Wetlands	25712	3139	11325	24076	10400
Subaqueous Bottom	26743	346860	2480	89612	30210
Beach/Dune	0	0	0	0	0












Permit Site Study Area

James River
James City County

Project site



Tidal Marsh Inventory - TMI

-  Arrow Arum-Pickerelweed
-  Big Cordgrass
-  Black Needlerush
-  Brackish Water Mixed
-  Cattail
-  Freshwater Mixed
-  Reed Grass
-  Saltbush
-  Saltmeadow
-  Saltmarsh Cordgrass
-  Yellow Pond Lily

Roads

-  Primary
-  Secondary
-  Tertiary

Intertidal flat



Open water



0 0.25 0.5 Miles



VIMS Shoreline Permit Application Report # 07-1662

To Wetlands Board / VMRC : Please indicate Wetlands Board / VMRC action on this sheet and return to VIMS, Wetlands Program, P.O. Box 1346, Gloucester Point, VA 23062

Application Number: 07-1662

Name: Busch Properties, Inc.

Locality: James City County

Waterway: James River

Please check here if this application was approved as proposed _____

Complete the form below if the application was modified.

ACTIVITIES	PROPOSED	PERMITTED
Breakwater (ft)	180	_____
Impact Subaqueous Bottom (ft ²)	3710	_____
Fill Subaqueous Bottom (ft ²)	1440	_____
Beach Nourishment (ft)	600	_____
Beach Nourishment (ft ²)	36900	_____
Impact Sand Flat Community (Type XIV) (ft ²)	10400	_____
Impact Subaqueous Bottom (ft ²)	26500	_____
Riprap (ft)	1300	_____

Please specify required modifications: _____



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From: Gerald and Marilyn Johnson <ghjmaj@widomaker.com>
Subject: **Re: Wetlands and Chesapeake Bay Boards**
Date: November 12, 2007 11:54:48 PM EST
To: Sarah Kadec <skadec@verizon.net>

Dear Sarah:

Kingsmill has progressively destroyed the world famous outcrops on their property by rip-rapping and cutting down their bluffs. The bluffs from near the Parkway to the Marina have already been effectively eliminated. I would like to see them set aside a section of the bluffs for preservation for the following reasons:

1. This section of the bluffs represent the last major exposures of unweathered lower and upper Yorktown Formation along the north bank of the James. Nowhere else in the world is there a complete sequence of beds of these types, ages and assemblage of fossils.
2. The fossil-bearing beds at Kingsmill exhibit rare, diverse assemblages of marine mollusks and more than seven other phyla of fossils, including fossil whales and sharks. The phyla are representative of the Alga, Protista (foraminifera), Porifera (sponges), Cnidaria (corals), Bryozoa (moss animals), Brachiopoda (lamp shells), Annelida (worms), Mollusca (clams, snails, tusk shells), Echinodermata (urchins, starfish), Vertebrata (sharks, fish, whales, seals).
3. The most complete sequence of the unweathered, unique Chama fossil beds are only found along the banks at Kingsmill.
4. The bluffs are those visited by Sir Charles Lyell in the first half of the 19th century and were used by him to correlate North American beds with those of Europe.
5. The sandy beach and adjacent shallow-water estuarine areas will be deprived of their source of nourishment, and over time the beach will be starved. As a consequence, the beach will probably be reduced or eliminated.
6. The beach and shallow water estuarine environments are nourished by sand from the bluffs. By altering the shoreline as proposed, the organisms living in the sandy bottoms will be deprived of this substrate material. It will be replaced in time by muds.
7. These bluffs are one of the last accessible areas where researchers and students can study these remarkable sediments and fossils.

Cutting down and "protecting" the bluffs will destroy irreplaceable bluffs of major scientific importance.

Ann tells me that you are very much concerned about the Kingsmill issues before the next Boards meeting. If I am not mistaken it is the 14th, but I'll try to check with Boots. Somewhere here I have the public notice that was in the Gazette this past Wednesday and earlier the Saturday before. Do you still have the paper? It's very early in the classified section. If you don't have it and want me to find mine, give me a call and I will do it.

Sarah