



North Carolina Department of Environment and Natural Resources

Pat McCrory Governor

John E. Skvarla, III Secretary

MEMORANDUM

TO: Environmental Review Commission
Attn: The Honorable Brent Jackson, Chair
The Honorable Ruth Samuelson, Co-Chair
Mariah Matheson, Committee Assistant
Jeff Hudson, Commission Counsel
Jennifer McGinnis, Commission Counsel

FROM: J. Carr McLamb, Jr.
Deputy Director of Legislative Affairs

SUBJECT: Implementation of Terminal Groin Legislation

DATE: September 4, 2013

Pursuant to Session 2011-387, Section 5, "the Coastal Resources Commission shall report to the Environmental Review Commission on the implementation of this act. The report shall provide a detailed description of each proposed and permitted terminal groin and its accompanying beach fill project, including the information required to be submitted pursuant to subsection (e) of G.S. 113A-115.1, as amended by Section 1 of this act." The attached report is submitted to fulfill this requirement.

If you have any questions or need additional information, please contact me by phone at 919.707.8310 or via e-mail at carr.mclamb@ncdenr.gov.

CC: Mitch Gillespie, Assistant Secretary for the Environment
Braxton Davis, Director, Division of Coastal Management
Neal Robbins, Director of Legislative and Intergovernmental Affairs

North Carolina Coastal Resources Commission



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N.C. COASTAL RESOURCES COMMISSION REPORT ON IMPLEMENTATION OF TERMINAL GROIN LEGISLATION SEPTEMBER 1, 2013

Session Law 2011-387 (S110) authorizes the Coastal Resources Commission (CRC) to permit the construction of a terminal groin under a pilot program if the Commission finds that (i) structures or infrastructure are imminently threatened by erosion, and that nonstructural approaches to erosion control are impractical; (ii) the terminal groin will be accompanied by a concurrent beach fill project; (iii) construction and maintenance of the terminal groin will not result in significant adverse impacts to private property or to the public recreational beach; (iv) the terminal groin will be managed pursuant to an inlet management plan; and (v) there are sufficient financial resources to cover the costs associated with the terminal groin.

The legislation also requires that the CRC report to the Environmental Review Commission on the implementation of the act including a detailed description of each proposed and permitted terminal groin and its accompanying beach fill project.

In the September 2011 report on the implementation of the act, the CRC indicated that it was researching certain provisions of the law, including guidelines for the determination of adverse impacts of a terminal groin, monitoring and impact thresholds, and acceptable financial assurances as described in SL 2011-387 (G.S. 113A-115.1). The September 2012 report included information on efforts to develop concepts and strategies on how to implement the monitoring and impact threshold requirements.

Based upon the attached comments received in November 2012 from the North Carolina Coastal Federation, CRC Chairman Bob Emory asked Division of Coastal Management (DCM) staff to re-examine the financial assurance component of SL 2011-387 to re-assess whether or not formal rulemaking should be undertaken to allow for implementation of this requirement. DCM staff subsequently discussed this issue with N.C. Dept. of Environment and Natural Resources legal counsel, other agencies with similar financial assurance requirements, and the North Carolina Treasurer's Office. The results of this effort were presented to the CRC at their February 2013 meeting, at which time DCM staff reiterated their position that the current language in SL 2011-387 gives the division the necessary guidance and flexibility to allow for the implementation of the financial assurance requirement. The CRC concurred with DCM's assessment.

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N.C. COASTAL RESOURCES COMMISSION

REPORT ON IMPLEMENTATION OF TERMINAL GROIN LEGISLATION SEPTEMBER 1, 2013

SL 2011-387 also requires the Commission to provide a detailed description of proposed and permitted terminal groin projects. To date, five communities have expressed an interest in pursuing a terminal groin project and have begun the process of satisfying the requirements of G.S. 113A-115.1. The following summaries outline the status of these communities in the permitting process.

Figure Eight Island Homeowners Association

The Figure Eight Island Homeowners Association has prepared a draft Environmental Impact Statement (DEIS) that addresses shoreline stabilization options for Rich Inlet in New Hanover County. The applicant's preferred alternative is the construction of a terminal groin at Rich Inlet with a concurrent beach fill project. The proposed project would involve additional beach nourishment every five years following completion of the terminal groin. Proposed impact monitoring would be based on a comparison of anticipated beach volumes versus actual beach volumes along multiple transects in the project area. Should the measured post-project sand volumes fall below anticipated volumes, mitigation would be implemented, likely in the form of additional sand placement in the impact areas.

In July of 2012, the Division of Coastal Management provided comments on the DEIS to the U.S. Army Corps of Engineers (USACE). The applicant and USACE are still in the process of incorporating these comments, as well as those from other commenting agencies and the public, into the Final Environmental Impact Statement (FIES) for the proposed project.

Village of Bald Head Island

During the past year, the consultant for the Village of Bald Head Island has been working diligently with the USACE on the preparation of the DEIS for their proposed project. DCM staff have been involved in several meetings with the Village, consultant, and USACE to address issues relating to the preparation of the document, but to date neither the draft document nor its individual sections have been provided to the Division for review. It is expected that the USACE will formally initiate the DEIS public and agency review process within the next one to two months.

Holden Beach

During the last year, two Project Review Team (PRT) meetings were held on the Holden Beach terminal groin project. At the May 2013 PRT meeting, an issue arose relating to whether the existing legislation would allow for the construction of a "L-head" at the end of the groin. DCM's interpretation of the legislation was that the wording of G.S. 113A-115.1(a)(3) would prohibit the L-head construction. Following additional discussions on the matter between the Town of Holden Beach, DCM staff, and members of the N.C. General Assembly, language was included in the Coastal Policy Reform Act of 2013 (Senate Bill 151) that would modify G.S. 113A-115.1(a)(3) to allow for construction of other design features, such as L-heads, in association with a terminal groin. This bill also included changes to the portions of the existing terminal groin legislation dealing with project funding, financial assurances, and monitoring and mitigation requirements. Senate Bill 151 was ratified by the legislature on July 22, 2013 and signed by the Governor on August 23, 2013. The consultant for the Holden Beach project continues to work with the USACE on the preparation of the DEIS for their proposed project.

Ocean Isle Beach

During the last year, one public scoping meeting and one PRT meeting were held on the Ocean Isle Beach terminal groin project. The consultant for the project continues to work with the USACE on the preparation of

the DEIS for their proposed project. The design, monitoring and mitigation plans for the proposed project are not sufficiently developed to allow for detailed reporting at this time.

Carteret County

As part of its ongoing efforts to develop a long-term programmatic approach to address erosion problems along Bogue Banks, Carteret County has added the use of a terminal groin at Bogue Inlet as one of several options that could be used to respond to shoreline erosion over the next 30 years. The proposed addition of a terminal groin option was raised at a past PRT. At this time, it is unclear if the County will be formally pursuing a terminal groin project.