

NORTH CAROLINA
Environmental Quality

ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

BRAXTON C. DAVIS
Director

January 27, 2020

MEMORANDUM

CRC-20-03

TO: Coastal Resources Commission
FROM: Ken Richardson, *Shoreline Management Specialist*
SUBJECT: Static Line Exception Re-Authorizations: Towns of Ocean Isle Beach and Carolina Beach

Town of Ocean Isle:

Petitioner, the Town of Ocean Isle (“Town”) requests that its Static Vegetation Line Exception be reauthorized by the Coastal Resources Commission, based on the information found within the attached 5-year progress report. The granting of such a request by the Commission would result in the continued application of Rule 15A NCAC 07H.0306(a)(12) to proposed development projects along the affected area of the town, instead of the static or pre-project vegetation line defined in Rule 15A NCAC 07H.0305(a)(6).

The Town’s original static line exception was granted by the Commission on January 25, 2010 and subsequently re-authorized on December 17, 2014. Rule 15A NCAC 07J.1204(b) requires that the Commission “shall review a static line exception authorized under 15A NCAC 07J.1203 at intervals no greater than every five years from the initial authorization in order to renew its findings for the conditions defined in 15A NCAC 07J.1201(d)(1) through (d)(4).” Specifically, the Petitioner is required to show the following four criteria:

1. a summary of all beach fill projects in the area proposed for the exception;
2. plans and related materials showing the design of the initial fill projects, and any past or planned maintenance work;
3. documentation showing the location and volume of compatible sediment necessary to construct and maintain the project over its design life; and
4. identification of the financial resources or funding sources to fund the project over its design life.

Rule 15A NCAC 07J.1204(b) also states that the Commission shall consider design changes to the initial large-scale beach fill project, design changes to the location and volume of compatible sediment, and changes in the financial resources or funding sources necessary to



fund the large-scale beach fill project.

Town of Ocean Isle: Staff Review

The Town's static vegetation line represents pre-project location of the vegetation on July 28, 1998, and extends 3.25 miles along the Town's 5.5-mile oceanfront shoreline. Although the Town has worked with the US Army Corps of Engineers (USACE) since 1965 to plan and provide storm protection, it wasn't until 2001 that the initial Federal Coastal Storm Damage Reduction (CSDR) project was constructed. Since then, there have been a total of four maintenance projects (2006/2007, 2009/2010, 2013/2014 and 2018).

The Town has identified several potential borrow sources (Shallotte and Tubbs Inlets in addition to offshore sites); however, Shallotte Inlet has served as the primary borrow site, and has been used for all of their CSDR projects (2001-2018). The initial project (2001) resulted in the placement of 1,952,600 cubic yards, while subsequent maintenance projects resulted in an average of 519,733 cubic yards of sediment being placed along varying sections of the initial project area. Based on 2015 USACE estimates, 300,000 cubic yards would be needed every three years for continued maintenance of the federal project. Shallotte Inlet continues to serve as a reliable source of beach compatible sediment as it serves as a sediment trap, and does "re-charge" with natural sediment transport at varied annual rates.

The Town performs annual beach monitoring, and based on their 2019 assessment, the area near Shallotte Inlet continues to experience varying degrees of high erosion (>2 ft/yr) and accretion, while the remaining portions of the Town's shoreline experienced minimal measured erosion between July 2018 and May 2019. Long-term monitoring is showing that overall, the maintenance projects are performing well with a net positive shoreline width and volume along East Beach, and minimal erosion along West Beach and near Tubbs Inlet. The Town continues to experience its highest erosion near Shallotte Inlet, and outside (east) of the federal CSDR project, which is consistent with results from NC erosion rate studies; including the most recent 2019 Division of Coastal Management and CRC Science Panel on Coastal Hazards Inlet Hazard Area studies.

Federal cost-sharing for the CSDR project is authorized until 2051. The Town generates its portion of the cost-share from funding authorized by House Bill 426, which allows the Town of Ocean Isle Beach the authority to levy a room occupancy and tourism development tax in the amount of three percent (3%) to be used for "tourism-related expenditures." Session Law 1997-364 Section 11(b) authorized the Town of Ocean Isle Beach Board of Commissioners to levy an additional room occupancy tax of up to two percent (2%) of the gross receipts from the rental of accommodations. The proceeds of this additional tax can only be used for beach renourishment and protection. On July 13, 2010, the Board of Commissioners voted to levy the additional two percent (2%) occupancy tax. This tax became effective on January 1, 2011. Included is a copy of Session Law 1997-364 and a copy of the Resolution levying the additional two percent (2%) tax. These funds are reserved specifically for this purpose. The present balance in this fund exceeds \$13,000,000. Based on previous projects, the Town's portion of the federal/non-federal cost-share has averaged \$1.6M per project.

Town of Ocean Isle: Staff Recommendation

Based on the Town's 5-year progress report and additional exhibits attached, Staff recommends that the conditions in 15A NCAC 07J.1201(d)(1) through (d)(4) have been met, and there have been no changes in the last five years that should result in the Town's static line exception being revoked.

Staff recommends that the Commission renew the Town's static line exception for another five years.

ATTACHMENT A: 15A NCAC 07J.1200 Static and Vegetation Line Exception Procedures

ATTACHMENT B: 15A NCAC 07H.0306 General Use Standards for Ocean Hazard Areas

ATTACHMENT C: Town of Ocean Isle Static Line Exception Progress Report

ATTACHMENT D: Town of Ocean Isle: Resolution to Levy an Additional 2% Occupancy Tax

ATTACHMENT F: Session Law 1997-364, House Bill 859

Town of Carolina Beach:

Petitioner, the Town of Carolina Beach (“Town”) requests that its Static Vegetation Line Exception be reauthorized by the Coastal Resources Commission, based on the information found within the attached 5-year progress report. The granting of such a request by the Commission would result in the continued application of Rule 15A NCAC 07H.0306(a)(12) to proposed development projects along the affected area of the town, instead of the static or pre-project vegetation line defined in Rule 15A NCAC 07H.0305(a)(6).

The Town’s original static line exception was granted by the Commission on September 9, 2009 and subsequently re-authorized on May 13, 2014. Rule 15A NCAC 07J.1204(b) requires that the Commission “shall review a static line exception authorized under 15A NCAC 07J.1203 at intervals no greater than every five years from the initial authorization in order to renew its findings for the conditions defined in 15A NCAC 07J.1201(d)(1) through (d)(4).” Specifically, the Petitioner is required to show the following four criteria:

1. a summary of all beach fill projects in the area proposed for the exception;
2. plans and related materials showing the design of the initial fill projects, and any past or planned maintenance work;
3. documentation showing the location and volume of compatible sediment necessary to construct and maintain the project over its design life; and
4. identification of the financial resources or funding sources to fund the project over its design life.

Rule 15A NCAC 07J.1204(b) also states that the Commission shall consider design changes to the initial large-scale beach fill project, design changes to the location and volume of compatible sediment, and changes in the financial resources or funding sources necessary to fund the large-scale beach fill project.

Town of Carolina Beach: Staff Review

The Town’s static vegetation line represents pre-project location of the vegetation on December 31, 1983 and extends 3.3 miles along the Town’s 3.5-mile oceanfront shoreline. Carolina Beach has had a long history of oceanfront development and beach fill projects. The first beach fill project was authorized by Congress in 1962, and initial work began in 1964. This first project moved material from the Carolina Beach Yacht Basin to the project shoreline. This project experienced severe erosion and required emergency fill in 1967, including a temporary timber groin at the north end. The severe erosion continued, leading to the construction of a 2,050-foot rock revetment which was constructed in two phases in 1970 and 1973. Additional beach fill was also placed in 1971. The USACE completed two studies of the severe erosion in 1970 and 1981, concluding that it was caused by the entrapment of material in the inlet, and proposed using sand from the throat of the inlet to nourish the beach. The next fill project was nine years later in 1980, due to funding delays. In late-1980, two severe storms hit this area, causing some homes to be condemned and also damaging the project area. Emergency fill taken from the inlet was placed in the spring of 1981 to rebuild the most severely damaged areas. The next major project took place in 1982 and

included the entire length of the project area. Fill from a site next to the Cape Fear River was used, and completely restored the berm and dune to the project specifications. Since 1982, the project has received fill approximately every three years using material from Carolina Beach Inlet. Since receiving a CRC authorized Static Vegetation Line Exception in 2009, the Town and USACE have constructed four federal CSDR maintenance projects (2010, 2013, 2016, and 2019).

The Carolina Beach shoreline changes at the recreational berm elevation and at MHW show significant seaward advancement along all of the sub-reaches due to the recent 2019 CSDR project which placed approximately 1.2 Mcy of material in Carolina Beach. The largest seaward advancement occurred in portions of Carolina Beach - North and Carolina Beach - Central due to larger quantities of material being placed in this area to combat elevated erosion rates. Volumetrically, Carolina Beach experienced a significant gain material, totaling 774,716 cy (42.8 cy/ft) above -14 ft NAVD88 over the past year. Since it is estimated that approximately 1,225,981 cy of material was placed within the municipal bounds of Carolina Beach, this indicates that approximately -451,265 cy (-25 cy/ft) of erosion likely took place between the 2018 survey and the beginning of the 2019 CSDR construction. Much of this erosion is likely due to the impacts of Hurricane Florence, making it significantly higher than the background erosion rate of -16.2 cy/ft/yr (-292,855 cy/yr). As with shoreline change, the largest volume of accretion occurred in portions of Carolina Beach - North and Carolina Beach - Central due to larger quantities of material being placed in this area to combat elevated erosion rates. Carolina Beach has a weighted erosion rate of -16.2 cy/ft/yr which indicates significant erosion in the absence of any CSDR projects.

Although Carolina Beach Inlet has been the only source of placement material since 1967, it is located within a Coastal Barrier Resources System (CBRS) unit and is therefore subject to the CBRA's restrictions on the expenditure of Federal funds. Due to the identified risk that the inlet may not be available as a borrow source, the PDT evaluated an offshore borrow source option, not located within a CBRA zone, which could be utilized if the sand borrow area of Carolina Beach Inlet is unavailable for this project in the future. Based on 2018 and 2019 USACE surveys, Carolina Beach Inlet had gained approximately 230,747 cubic yards of material, which was then used for the 2019 federal CSDR project. 2019 was the sixth year of New Hanover County's comprehensive mapping program that includes annual monitoring and analyses, which will continue to provide important information in monitoring shoreline and sediment volume changes to help optimize future shoreline management strategies and tracking losses/gains between CSDR projects.

The primary funding mechanism (Federal Project Cooperation Agreement) remains current for the Carolina Beach Coastal Storm Damage Reduction Project. A second federal funding mechanism is now in place in the form of contributing authority approved by Congress in 2012. The contributing authority option allows the nonfederal sponsor the option of augmenting federal funding shortfalls. Under the current authority, the last renourishment interval was completed in 2019, and Federal participation will end after 2020. With a determination of Federal interest, obtaining authorization in the Water Resources Development Act (WRDA) of 2020 would facilitate the uninterrupted continuation of cost-shared periodic renourishment cycles scheduled for construction initiation in fall 2021. Continuation of this project allows the opportunity for Federal participation in periodic renourishment through 2036. This Beach Renourishment Evaluation Report (BRER), conducted under Section 1037 of the Water Resources Reform and

Development Act of 2014, as amended, is a cost-shared effort with the Town of Carolina Beach as the non-Federal study sponsor.

A key element of the New Hanover County contingency plan was the adoption of an inter-local agreement, signed by all three beach towns and New Hanover County, that specifies how funds from the New Hanover County beach nourishment fund would be used to support continued periodic nourishment of all three projects in the absence of federal and/or state funding. Under this agreement, if no federal or state funding is provided, the three beach towns would provide 17.5% of the funds needed for periodic nourishment of their respective projects and the County would contribute 82.5%. If some federal and state funding is provided but the combined amount is less than 17.5%, the towns agreed to make-up the difference. For example, if the state provided 10% of the nourishment cost, the towns would provide 7.5%. The remaining balance of 82.5% would be covered by New Hanover County. Considering only funding at current intervals and historical placement volumes, ample funding should be available for the Carolina Beach Coastal Storm Damage Reduction Project for the foreseeable future (greater than 25 years).

In FY 2019, New Hanover County had approximately \$42.1M in room occupancy tax reserve funding for future local match or local participation in beach projects. Annual collections totaled an estimated \$4M in FY 2019 for CSDR projects and, historically, the fund has grown by approximately 3% per year since 1984. The Town of Carolina Beach has placed an additional \$350,000 in the General Fund for FY 2019-2020 for Beach Maintenance and Storm Damage Prevention (Line Item 10-630-018) to augment Room Occupancy Tax funds and is committed to setting aside additional funds in future budgets.

Town of Carolina Beach: Staff Recommendation

Based on the Town's 5-year progress report and additional exhibits attached, Staff recommends that the conditions in 15A NCAC 07J.1201(d)(1) through (d)(4) have been met, and there have been no changes in the last five years that should result in the Town's static line exception being revoked. However, it is worth noting that the Town currently has a CRC approved Development Line (15A NCAC 07J.1300), which has potential to create rule implementation issues.

Based on conditions in current rules (15A NCAC 07J.1201), Staff recommends that the Commission renew the Town's static line exception for another five years.

ATTACHMENT A: 15A NCAC 07J.1200 Static and Vegetation Line Exception Procedures

ATTACHMENT B: 15A NCAC 07H.0306 General Use Standards for Ocean Hazard Areas

ATTACHMENT G: Town of Carolina Beach Static Line Re-Authorization Report

ATTACHMENT A: STATIC AND VEGETATION LINE EXCEPTION PROCEDURES

SECTION .1200 – STATIC AND VEGETATION LINE EXCEPTION PROCEDURES

15A NCAC 07J .1201 REQUESTING THE STATIC LINE EXCEPTION

(a) A petitioner subject to a static vegetation line pursuant to 15A NCAC 07H .0305 may petition the Coastal Resources Commission for an exception to the static vegetation line in accordance with the provisions of this Section.

A "petitioner" shall be defined as:

- (1) Any local government;
- (2) Any group of local governments involved in a regional beach fill project;
- (3) Any qualified homeowner's association defined in G.S. 47F-1-103(3) that has the authority to approve the locations of structures on lots within the territorial jurisdiction of the association, and has jurisdiction over at least one mile of ocean shoreline; or
- (4) A permit holder of a large-scale beach fill project.

(b) A petitioner shall be eligible to submit a request for a static vegetation line exception after the completion of construction of the initial large-scale beach fill project(s) as defined in 15A NCAC 07H .0305 that required the creation of a static vegetation line(s). For a static vegetation line in existence prior to the effective date of this Rule, the award-of-contract date of the initial large-scale beach fill project, or the date of the aerial photography or other survey data used to define the static vegetation line, whichever is most recent, shall be used in lieu of the completion of construction date.

(c) A static vegetation line exception request applies to the entire static vegetation line within the jurisdiction of the petitioner, including segments of a static vegetation line that are associated with the same large-scale beach fill project. If multiple static vegetation lines within the jurisdiction of the petitioner are associated with different large-scale beach fill projects, then the static vegetation line exception in accordance with 15A NCAC 07H .0306 and the procedures outlined in this Section shall be considered separately for each large-scale beach fill project.

(d) A static vegetation line exception request shall be made in writing by the petitioner. A complete static vegetation line exception request shall include the following:

- (1) A summary of all beach fill projects in the area for which the exception is being requested including the initial large-scale beach fill project associated with the static vegetation line, subsequent maintenance of the initial large-scale projects(s) and beach fill projects occurring prior to the initial large-scale projects(s). To the extent historical data allows, the summary shall include construction dates, contract award dates, volume of sediment excavated, total cost of beach fill project(s), funding sources, maps, design schematics, pre-and post-project surveys and a project footprint;
- (2) Plans and related materials including reports, maps, tables and diagrams for the design and construction of the initial large-scale beach fill project that required the static vegetation line, subsequent maintenance that has occurred, and planned maintenance needed to achieve a design life providing no less than 30 years of shore protection from the date of the static line exception request. The plans and related materials shall be designed and prepared by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements for said work;
- (3) Documentation, including maps, geophysical, and geological data, to delineate the planned location and volume of compatible sediment as defined in 15A NCAC 07H .0312 necessary to construct and maintain the large-scale beach fill project defined in Subparagraph (d)(2) of this Rule over its design life. This documentation shall be designed and prepared by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements for said work; and
- (4) Identification of the financial resources or funding sources necessary to fund the large-scale beach fill project over its design life.

(e) A static vegetation line exception request shall be submitted to the Director of the Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557. Written acknowledgement of the receipt of a completed static vegetation line exception request, including notification of the date of the meeting at which the request will be considered by the Coastal Resources Commission, shall be provided to the petitioner by the Division of Coastal Management.

(f) The Coastal Resources Commission shall consider a static vegetation line exception request no later than the second scheduled meeting following the date of receipt of a complete request by the Division of Coastal Management, except when the petitioner and the Division of Coastal Management agree upon a later date.

*History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;
Eff. March 23, 2009;
Amended Eff. April 1, 2016.*

15A NCAC 07J .1202 REVIEW OF THE STATIC LINE EXCEPTION REQUEST

(a) The Division of Coastal Management shall prepare a written report of the static line exception request to be presented to the Coastal Resources Commission. This report shall include:

- (1) A description of the area affected by the static line exception request;
- (2) A summary of the large-scale beach fill project that required the static vegetation line as well as the completed and planned maintenance of the project(s);
- (3) A summary of the evidence required for a static line exception; and
- (4) A recommendation to grant or deny the static line exception.

(b) The Division of Coastal Management shall provide the petitioner requesting the static line exception an opportunity to review the report prepared by the Division of Coastal Management no less than 10 days prior to the meeting at which it is to be considered by the Coastal Resources Commission.

*History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;
Eff. March 23, 2009.*

15A NCAC 07J .1203 PROCEDURES FOR APPROVING THE STATIC LINE EXCEPTION

(a) At the meeting that the static line exception is considered by the Coastal Resources Commission, the following shall occur:

- (1) The Division of Coastal Management shall orally present the report described in 15A NCAC 07J .1202.
- (2) A representative for the petitioner may provide written or oral comments relevant to the static line exception request. The Chairman of the Coastal Resources Commission may limit the time allowed for oral comments.
- (3) Additional parties may provide written or oral comments relevant to the static line exception request. The Chairman of the Coastal Resources Commission may limit the time allowed for oral comments.

(b) The Coastal Resources Commission shall authorize a static line exception request following affirmative findings on each of the criteria presented in 15A NCAC 07J .1201(d)(1) through (d)(4). The final decision of the Coastal Resources Commission shall be made at the meeting at which the matter is heard or in no case later than the next scheduled meeting. The final decision shall be transmitted to the petitioner by registered mail within 10 business days following the meeting at which the decision is reached.

(c) The decision to authorize or deny a static line exception is a final agency decision and is subject to judicial review in accordance with G.S. 113A-123.

*History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;
Eff. March 23, 2009.*

15A NCAC 07J .1204 REVIEW OF THE LARGE-SCALE BEACH-FILL PROJECT AND APPROVED STATIC LINE EXCEPTIONS

(a) Progress Reports. The petitioner that received the static line exception shall provide a progress report to the Coastal Resources Commission at intervals no greater than every five years from date the static line exception is authorized. The progress report shall address the criteria defined in 15A NCAC 07J .1201(d)(1) through (d)(4) and be submitted in writing to the Director of the Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557. The Division of Coastal Management shall provide written acknowledgement of the receipt of a completed progress report, including notification of the meeting date at which the report will be presented to the Coastal Resources Commission to the petitioner.

(b) The Coastal Resources Commission shall review a static line exception authorized under 15A NCAC 07J .1203 at intervals no greater than every five years from the initial authorization in order to renew its findings for the conditions defined in 15A NCAC 07J .1201(d)(2) through (d)(4). The Coastal Resources Commission shall also consider the following conditions:

- (1) Design changes to the initial large-scale beach fill project defined in 15A NCAC 07J .1201(d)(2) provided that the changes are designed and prepared by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements for the work;
- (2) Design changes to the location and volume of compatible sediment, as defined by 15A NCAC 07H .0312, necessary to construct and maintain the large-scale beach fill project defined in 15A NCAC 07J .1201(d)(2), including design changes defined in this Rule provided that the changes have been designed and prepared by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements for the work; and
- (3) Changes in the financial resources or funding sources necessary to fund the large-scale beach fill project(s) defined in 15A NCAC 07J .1201(d)(2). If the project has been amended to include design changes defined in this Rule, then the Coastal Resources Commission shall consider the financial resources or funding sources necessary to fund the changes.

(c) The Division of Coastal Management shall prepare a written summary of the progress report and present it to the Coastal Resources Commission no later than the second scheduled meeting following the date the report was received, except when a later meeting is agreed upon by the local government or community submitting the progress report and the Division of Coastal Management. This written summary shall include a recommendation from the Division of Coastal Management on whether the conditions defined in 15A NCAC 07J .1201(d)(1) through (d)(4) have been met. The petitioner submitting the progress report shall be provided an opportunity to review the written summary prepared by the Division of Coastal Management no less than 10 days prior to the meeting at which it is to be considered by the Coastal Resources Commission.

(d) The following shall occur at the meeting at which the Coastal Resources Commission reviews the static line exception progress report:

- (1) The Division of Coastal Management shall orally present the written summary of the progress report as defined in this Rule.
- (2) A representative for the petitioner may provide written or oral comments relevant to the static line exception progress report. The Chairman of the Coastal Resources Commission may limit the time allowed for oral comments.
- (3) Additional parties may provide written or oral comments relevant to the static line exception progress report. The Chairman of the Coastal Resources Commission may limit the time allowed for oral comments.

History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124; Eff. March 23, 2009.

15A NCAC 07J .1205 REVOCATION AND EXPIRATION OF THE STATIC LINE EXCEPTION

(a) The static line exception shall be revoked immediately if the Coastal Resources Commission determines, after the review of the petitioner's progress report identified in 15A NCAC 07J .1204, that any of the criteria under which the static line exception is authorized, as defined in 15A NCAC 07J .1201(d)(2) through (d)(4) are not being met.

(b) The static line exception shall expire immediately at the end of the design life of the large-scale beach fill project defined in 15A NCAC 07J .1201(d) (2) including subsequent design changes to the project as defined in 15A NCAC 07J .1204(b).

(c) In the event a progress report is not received by the Division of Coastal Management within five years from either the static line exception or the previous progress report, the static line exception shall be revoked automatically at the end of the five-year interval defined in 15A NCAC 07J .1204(b) for which the progress report was not received.

(d) The revocation or expiration of a static line exception is considered a final agency decision and is subject to judicial review in accordance with G.S. 113A-123.

History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124; Eff. March 23, 2009.

15A NCAC 07J .1206 LOCAL GOVERNMENTS AND COMMUNITIES WITH STATIC VEGETATION LINES AND STATIC LINE EXCEPTIONS

A list of static vegetation lines in place for petitioners and the conditions under which the static vegetation lines exist, including the date(s) the static line was defined, shall be maintained by the Division of Coastal Management. A list of static line exceptions in place for petitioners and the conditions under which the exceptions exist, including the date the exception was granted, the dates the progress reports were received, the design life of the large-scale beach fill project and the potential expiration dates for the static line exception, shall be maintained by the Division of Coastal

Management. Both the static vegetation line list and the static line exception list shall be available for inspection at the Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557.

History Note: Authority G.S. 113A-107; 113A-113(b)(6), 113A-124;
Eff. March 23, 2009.

ATTACHMENT B: GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS

15A NCAC 07H .0306 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS

(a) In order to protect life and property, all development not otherwise specifically exempted or allowed by law or elsewhere in the Coastal Resources Commission's rules shall be located according to whichever of the following is applicable:

- (1) The ocean hazard setback for development shall be measured in a landward direction from the vegetation line, the static vegetation line, or the measurement line, whichever is applicable.
- (2) In areas with a development line, the ocean hazard setback shall be set in accordance with Subparagraphs (a)(3) through (9) of this Rule. In no case shall new development be sited seaward of the development line.
- (3) In no case shall a development line be created or established on state owned lands or oceanward of the mean high water line or perpetual property easement line, whichever is more restrictive.
- (4) The ocean hazard setback shall be determined by both the size of development and the shoreline long term erosion rate as defined in Rule .0304 of this Section. "Development size" is defined by total floor area for structures and buildings or total area of footprint for development other than structures and buildings. Total floor area includes the following:
 - (A) The total square footage of heated or air-conditioned living space;
 - (B) The total square footage of parking elevated above ground level; and
 - (C) The total square footage of non-heated or non-air-conditioned areas elevated above ground level, excluding attic space that is not designed to be load-bearing.Decks, roof-covered porches, and walkways shall not be included in the total floor area unless they are enclosed with material other than screen mesh or are being converted into an enclosed space with material other than screen mesh.
- (5) With the exception of those types of development defined in 15A NCAC 07H .0309, no development, including any portion of a building or structure, shall extend oceanward of the ocean hazard setback. This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean hazard setback shall be established based on the following criteria:
 - (A) A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
 - (B) A building or other structure greater than or equal to 5,000 square feet but less than 10,000 square feet requires a minimum setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;
 - (C) A building or other structure greater than or equal to 10,000 square feet but less than 20,000 square feet requires a minimum setback of 130 feet or 65 times the shoreline erosion rate, whichever is greater;
 - (D) A building or other structure greater than or equal to 20,000 square feet but less than 40,000 square feet requires a minimum setback of 140 feet or 70 times the shoreline erosion rate, whichever is greater;
 - (E) A building or other structure greater than or equal to 40,000 square feet but less than 60,000 square feet requires a minimum setback of 150 feet or 75 times the shoreline erosion rate, whichever is greater;
 - (F) A building or other structure greater than or equal to 60,000 square feet but less than 80,000 square feet requires a minimum setback of 160 feet or 80 times the shoreline erosion rate, whichever is greater;
 - (G) A building or other structure greater than or equal to 80,000 square feet but less than 100,000 square feet requires a minimum setback of 170 feet or 85 times the shoreline erosion rate, whichever is greater;
 - (H) A building or other structure greater than or equal to 100,000 square feet requires a minimum setback of 180 feet or 90 times the shoreline erosion rate, whichever is greater;
 - (I) Infrastructure that is linear in nature, such as roads, bridges, pedestrian access such as boardwalks and sidewalks, and utilities providing for the transmission of electricity, water, telephone, cable television, data, storm water, and sewer requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;

- (J) Parking lots greater than or equal to 5,000 square feet require a setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;
- (K) Notwithstanding any other setback requirement of this Subparagraph, a building or other structure greater than or equal to 5,000 square feet in a community with a static line exception in accordance with 15A NCAC 07J .1200 requires a minimum setback of 120 feet or 60 times the shoreline erosion rate in place at the time of permit issuance, whichever is greater. The setback shall be measured landward from either the static vegetation line, the vegetation line, or measurement line, whichever is farthest landward; and
- (L) Notwithstanding any other setback requirement of this Subparagraph, replacement of single-family or duplex residential structures with a total floor area greater than 5,000 square feet, and commercial and multi-family residential structures with a total floor area no greater than 10,000 square feet, shall be allowed provided that the structure meets the following criteria:
 - (i) the structure was originally constructed prior to August 11, 2009;
 - (ii) the structure as replaced does not exceed the original footprint or square footage;
 - (iii) it is not possible for the structure to be rebuilt in a location that meets the ocean hazard setback criteria required under Subparagraph (a)(5) of this Rule;
 - (iv) the structure as replaced meets the minimum setback required under Part (a)(5)(A) of this Rule; and
 - (v) the structure is rebuilt as far landward on the lot as feasible.
- (6) If a primary dune exists in the AEC on or landward of the lot where the development is proposed, the development shall be landward of the crest of the primary dune, the ocean hazard setback, or development line, whichever is farthest from vegetation line, static vegetation line, or measurement line, whichever is applicable. For existing lots, however, where setting the development landward of the crest of the primary dune would preclude any practical use of the lot, development may be located oceanward of the primary dune. In such cases, the development may be located landward of the ocean hazard setback, but shall not be located on or oceanward of a frontal dune or the development line. The words "existing lots" in this Rule shall mean a lot or tract of land that, as of June 1, 1979, is specifically described in a recorded plat and cannot be enlarged by combining the lot or tract of land with a contiguous lot or tract of land under the same ownership.
- (7) If no primary dune exists, but a frontal dune does exist in the AEC on or landward of the lot where the development is proposed, the development shall be set landward of the frontal dune, ocean hazard setback, or development line, whichever is farthest from the vegetation line, static vegetation line, or measurement line, whichever is applicable.
- (8) If neither a primary nor frontal dune exists in the AEC on or landward of the lot where development is proposed, the structure shall be landward of the ocean hazard setback or development line, whichever is more restrictive.
- (9) Structural additions or increases in the footprint or total floor area of a building or structure represent expansions to the total floor area and shall meet the setback requirements established in this Rule and 15A NCAC 07H .0309(a). New development landward of the applicable setback may be cosmetically, but shall not be structurally, attached to an existing structure that does not conform with current setback requirements.
- (10) Established common law and statutory public rights of access to and use of public trust lands and waters in ocean hazard areas shall not be eliminated or restricted. Development shall not encroach upon public accessways, nor shall it limit the intended use of the accessways.
- (11) Development setbacks in areas that have received large-scale beach fill as defined in 15A NCAC 07H .0305 shall be measured landward from the static vegetation line as defined in this Section, unless a development line has been approved by the Coastal Resources Commission in accordance with 15A NCAC 07J .1300.
- (12) In order to allow for development landward of the large-scale beach fill project that cannot meet the setback requirements from the static vegetation line, but can or has the potential to meet the setback requirements from the vegetation line set forth in Subparagraphs (a)(1) and (a)(5) of this Rule, a local government, group of local governments involved in a regional beach fill project, or qualified "owners' association" as defined in G.S. 47F-1-103(3) that has the authority to approve the locations of structures on lots within the territorial jurisdiction of the association and has jurisdiction over at least one mile of ocean shoreline, may petition the Coastal Resources Commission for a "static line exception" in accordance with 15A NCAC 07J .1200. The static line exception shall

apply to development of property that lies both within the jurisdictional boundary of the petitioner and the boundaries of the large-scale beach fill project. This static line exception shall also allow development greater than 5,000 square feet to use the setback provisions defined in Part (a)(5)(K) of this Rule in areas that lie within the jurisdictional boundary of the petitioner, and the boundaries of the large-scale beach fill project. If the request is approved, the Coastal Resources Commission shall allow development setbacks to be measured from a vegetation line that is oceanward of the static vegetation line under the following conditions:

- (A) Development meets all setback requirements from the vegetation line defined in Subparagraphs (a)(1) and (a)(5) of this Rule;
- (B) Development setbacks shall be calculated from the shoreline erosion rate in place at the time of permit issuance;
- (C) No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent building or structure. When the configuration of a lot precludes the placement of a building or structure in line with the landward-most adjacent building or structure, an average line of construction shall be determined by the Division of Coastal Management on a case-by-case basis in order to determine an ocean hazard setback that is landward of the vegetation line, a distance no less than 30 times the shoreline erosion rate or 60 feet, whichever is greater;
- (D) With the exception of swimming pools, the development defined in Rule .0309(a) of this Section shall be allowed oceanward of the static vegetation line; and
- (E) Development shall not be eligible for the exception defined in Rule .0309(b) of this Section.

(b) No development shall be permitted that involves the removal or relocation of primary or frontal dune sand or vegetation thereon that would adversely affect the integrity of the dune. Other dunes within the ocean hazard area shall not be disturbed unless the development of the property is otherwise impracticable. Any disturbance of these other dunes shall be allowed only to the extent permitted by 15A NCAC 07H .0308(b).

(c) Development shall not cause irreversible damage to historic architectural or archaeological resources as documented by the local historic commission, the North Carolina Department of Natural and Cultural Resources, or the National Historical Registry.

(d) Development shall comply with minimum lot size and set back requirements established by local regulations.

(e) Mobile homes shall not be placed within the high hazard flood area unless they are within mobile home parks existing as of June 1, 1979.

(f) Development shall comply with the general management objective for ocean hazard areas set forth in 15A NCAC 07H .0303.

(g) Development shall not interfere with legal access to, or use of, public resources, nor shall such development increase the risk of damage to public trust areas.

(h) Development proposals shall incorporate measures to avoid or minimize adverse impacts of the project. These measures shall be implemented at the applicant's expense and may include actions that:

- (1) minimize or avoid adverse impacts by limiting the magnitude or degree of the action;
- (2) restore the affected environment; or
- (3) compensate for the adverse impacts by replacing or providing substitute resources.

(i) Prior to the issuance of any permit for development in the ocean hazard AECs, there shall be a written acknowledgment from the applicant to the Division of Coastal Management that the applicant is aware of the risks associated with development in this hazardous area and the limited suitability of this area for permanent structures. The acknowledgement shall state that the Coastal Resources Commission does not guarantee the safety of the development and assumes no liability for future damage to the development.

(j) All relocation of structures shall require permit approval. Structures relocated with public funds shall comply with the applicable setback line and other applicable AEC rules. Structures, including septic tanks and other essential accessories, relocated entirely with non-public funds shall be relocated the maximum feasible distance landward of the present location. Septic tanks shall not be located oceanward of the primary structure. All relocation of structures shall meet all other applicable local and state rules.

(k) Permits shall include the condition that any structure shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration as defined in 15A NCAC 07H .0308(a)(2)(B). Any such structure shall be relocated or dismantled within two years of the time when it becomes imminently threatened, and in any case upon its collapse or subsidence. However, if natural shoreline recovery or beach fill takes place within two years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then

it need not be relocated or dismantled at that time. This permit condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed pursuant to 15A NCAC 07H .0308(a)(2).

History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;
Eff. September 9, 1977;
Amended Eff. December 1, 1991; March 1, 1988; September 1, 1986; December 1, 1985;
RRC Objection due to ambiguity Eff. January 24, 1992;
Amended Eff. March 1, 1992;
RRC Objection due to ambiguity Eff. May 21, 1992;
Amended Eff. February 1, 1993; October 1, 1992; June 19, 1992;
RRC Objection due to ambiguity Eff. May 18, 1995;
Amended Eff. August 11, 2009; April 1, 2007; November 1, 2004; June 27, 1995;
Temporary Amendment Eff. January 3, 2013;
Amended Eff. September 1, 2017; February 1, 2017; April 1, 2016; September 1, 2013.

**Ocean Isle Beach, NC
Static Line Exception Progress Report
February 2020**



**Prepared by:
The Town of Ocean Isle Beach**



oceanisle

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Town of Ocean Isle Beach, NC Static Line Exception Progress Report

1. PURPOSE

The Town of Ocean Isle Beach (Town) applied for and received an exception from the static line pursuant to NCGS 113A-107, 113(b)(6), 113A-124 and 15A NCAC 7J .1200 from the North Carolina Coastal Resources Commission on January 25, 2010 and a subsequent extension on December 17, 2016. This progress report is a requirement in order to have this exception reauthorized.

2. PROJECT DESCRIPTION/AUTHORIZATION

The project for hurricane-flood control from Cape Fear to the North Carolina-South

Carolina State Line, was authorized in House Document Number 511, Eighty-ninth Congress, by Section 203 of the Flood Control Act of 1966, Public Law 89-789, dated November 7, 1966 to provide hurricane protection, shore protection, and Federal participation in the cost of periodic nourishment for the first 10 years of project life at Holden Beach, Long Beach, Ocean Isle Beach, Sunset Beach, and Yaupon Beach in Brunswick County, NC.

Funding to initiate construction of the Ocean Isle Beach portion of the Brunswick County Beaches Project was provided by the Energy and Water Development Appropriations Act, 2000, Public Law 106-60, and House Report 253, Energy and Water Development Appropriations Bill, One-Hundred-Sixth Congress, First Session.

The initial project was to have a dune with a crown width 25 feet at an elevation of 9.5 feet NGVD extending for 5,150 feet. The dune was fronted by a berm with a width of 50 feet at elevation 7 feet NGVD for a distance of 5,150 feet, then, to its west, shall have a berm with a crown width of 50 feet at elevation 7 feet NGVD for a distance of 2,600 feet, and then a berm with a crown width of 25 feet at an elevation 7 feet NGVD for a distance of 2,400 feet. The dune and berm shall have transitions of 4,200 feet on the eastern end and 2,800 feet on the western end. The total project covered over 28,000 feet of shoreline (Figure 1).

Periodic beach nourishment was authorized by Section 934 of the Water Resources Development Act of 1986, Public Law 99-662, for a period that does not exceed 50 years after initiation of construction, for water resources development projects for which such nourishment has been authorized for a limited period. Construction of the Ocean Isle Beach project was initiated in

2001; therefore, Federal cost-sharing for beach nourishment is authorized to continue until 2051.

The 2001 initial nourishment was used in this static line exception application as the project construction start date. Therefore, for the purposes of this progress report, the Ocean Isle Beach project has been in existence for 19 years.



Figure 1. Ocean Isle Beach project limits and USACE Baseline Stations.

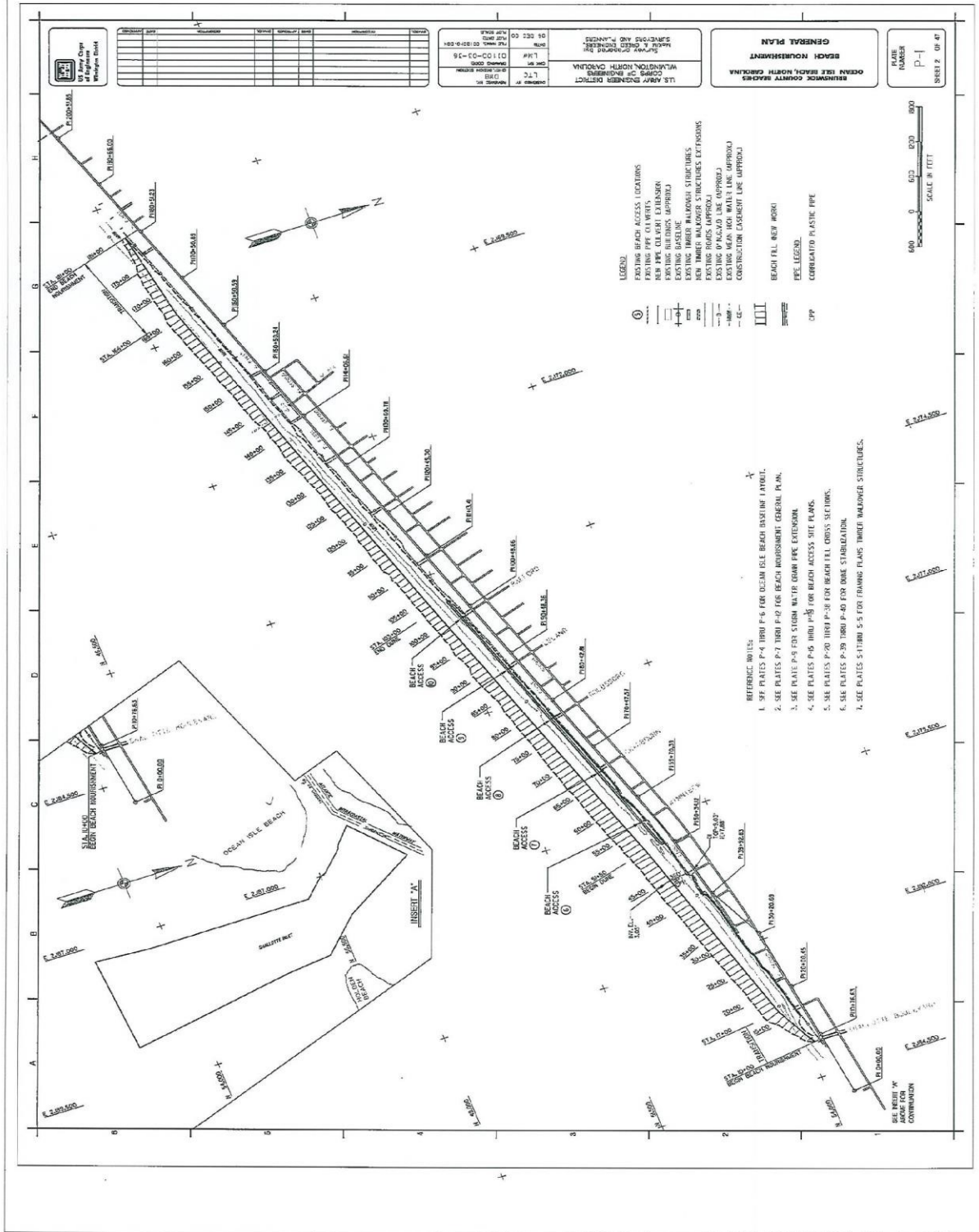


Figure 2a. 2001 General Plan.

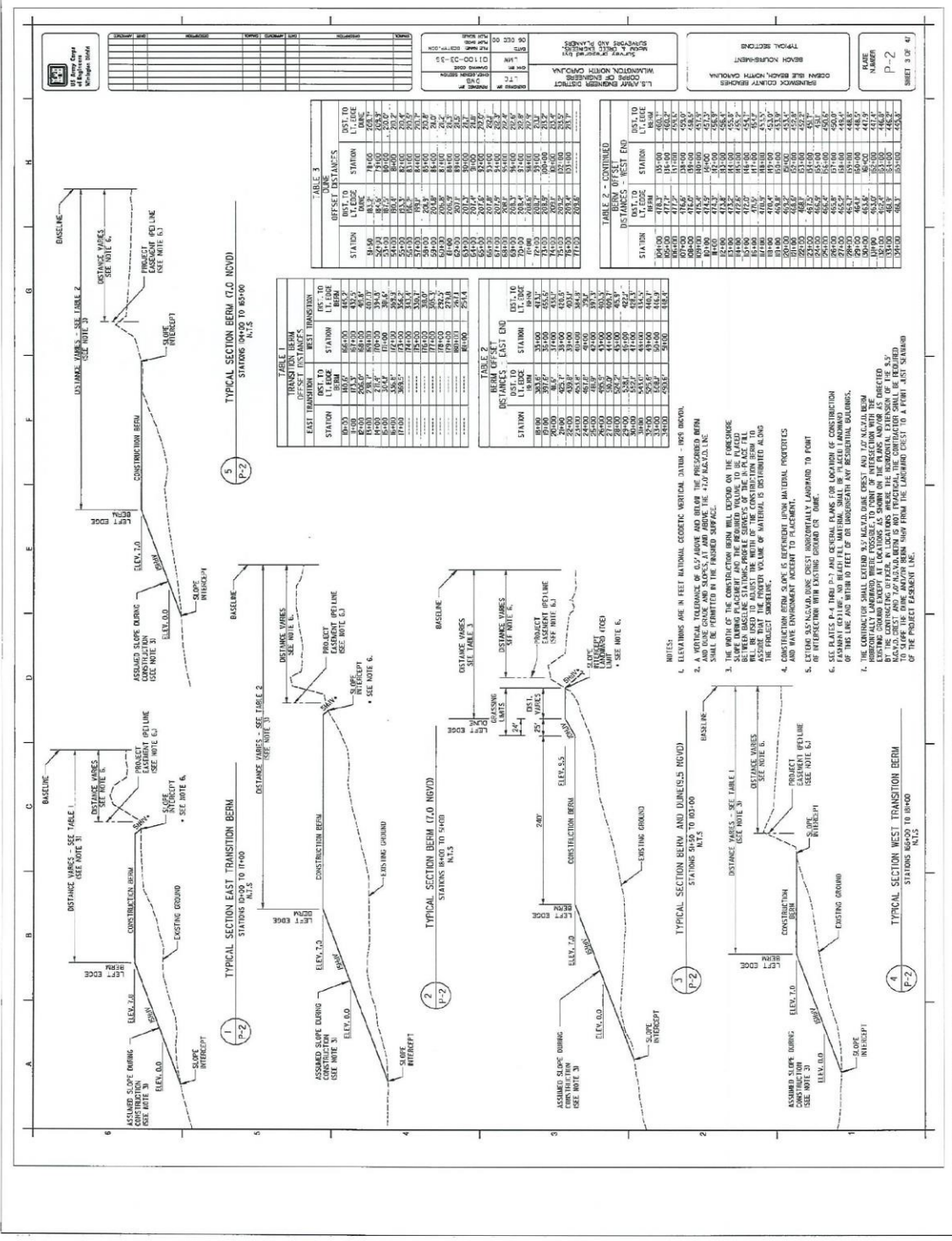


Figure 2b. Selected 2001 Profiles.

3. TOWN STATIC LINE AND EASEMENT LINE

One of the conditions for federal participation in the project was the assurance the beach would remain open to the public for the life of the project. Most all property within the project area was deeded to the Mean High Water Line (MHW) which created a problem for the U.S. Army Corps to initiate the project. Prior to the initial project, the U.S. Army Corps required that the Town obtain perpetual easements from the affected property owners in the project area. All easements necessary for the construction of the Ocean Isle Beach Nourishment Project were completed as of November 7, 2000. There were a total of 231 affected tracts.

The NC Coastal Resources Commission (CRC) adopted rules governing the establishment of a static vegetation line for beach communities that undertake a largescale beach nourishment project. A large scale project is defined by the CRC as any volume of sediment greater than 300,000 cubic yards or any storm protection project constructed by the U.S. Army Corps of Engineers. The initial static line for Ocean Isle Beach was conducted in December 1999, but has since been altered. As stated in 15A NCAC 07H .0305(a)(6), *“Because the impact of Hurricane Floyd (September 1999) caused significant portions of the vegetation line in the Town of Oak Island and the Town of Ocean Isle Beach to be relocated landward of its pre-storm position, the static line for areas landward of the beach fill construction in the Town of Oak Island and the Town of Ocean Isle Beach, the onset of which occurred in 2000, shall be defined by the general trend of the vegetation line established by the Division of Coastal Management from June 1998 aerial orthophotography.”* The location of the current static vegetation line for Ocean Isle Beach is shown in Figures 3a-3f.

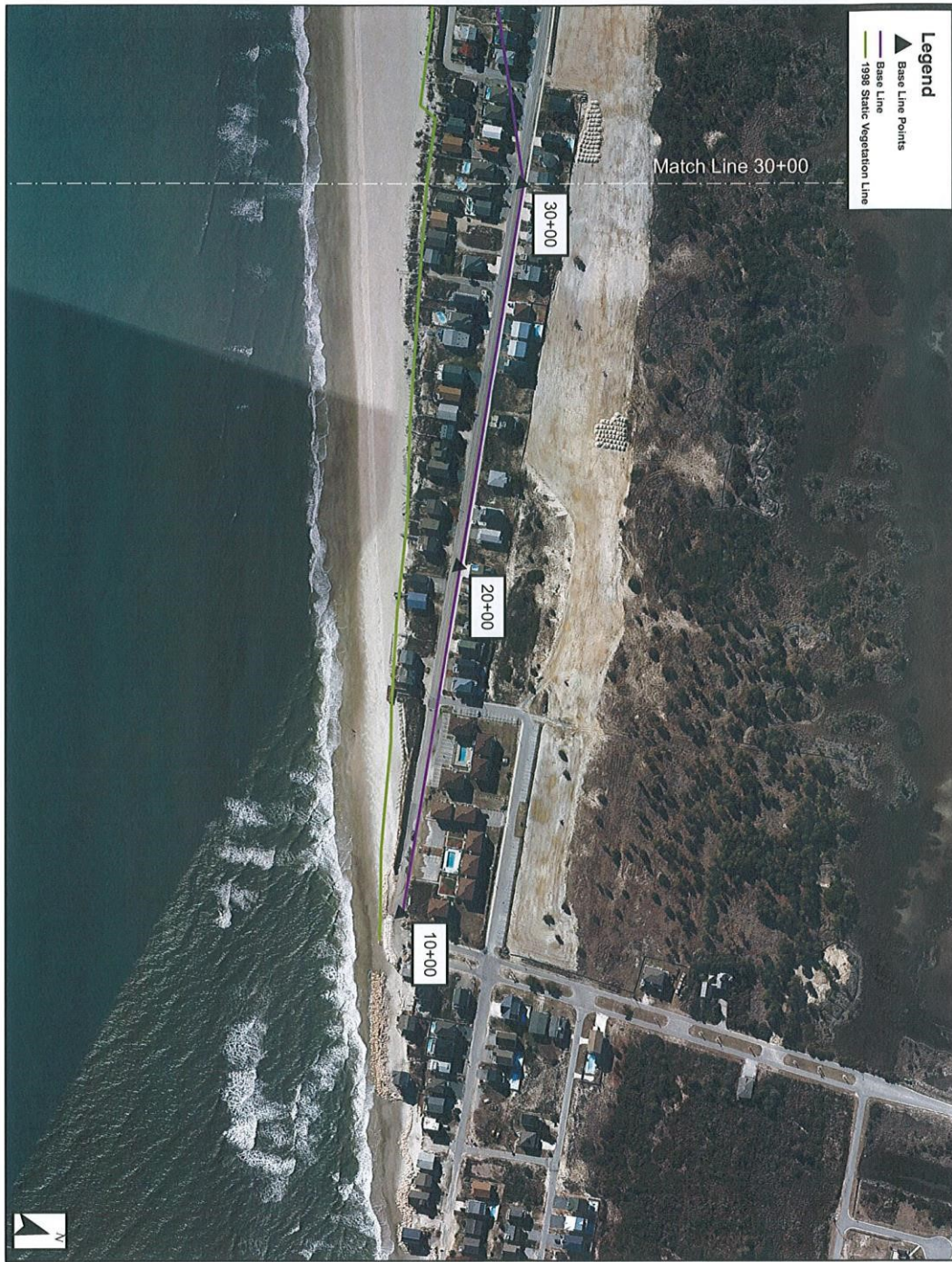


Figure 3a. Ocean Isle Beach Base and Static Vegetation Lines.



Figure 3b. Ocean Isle Beach Base and Static Vegetation Lines.

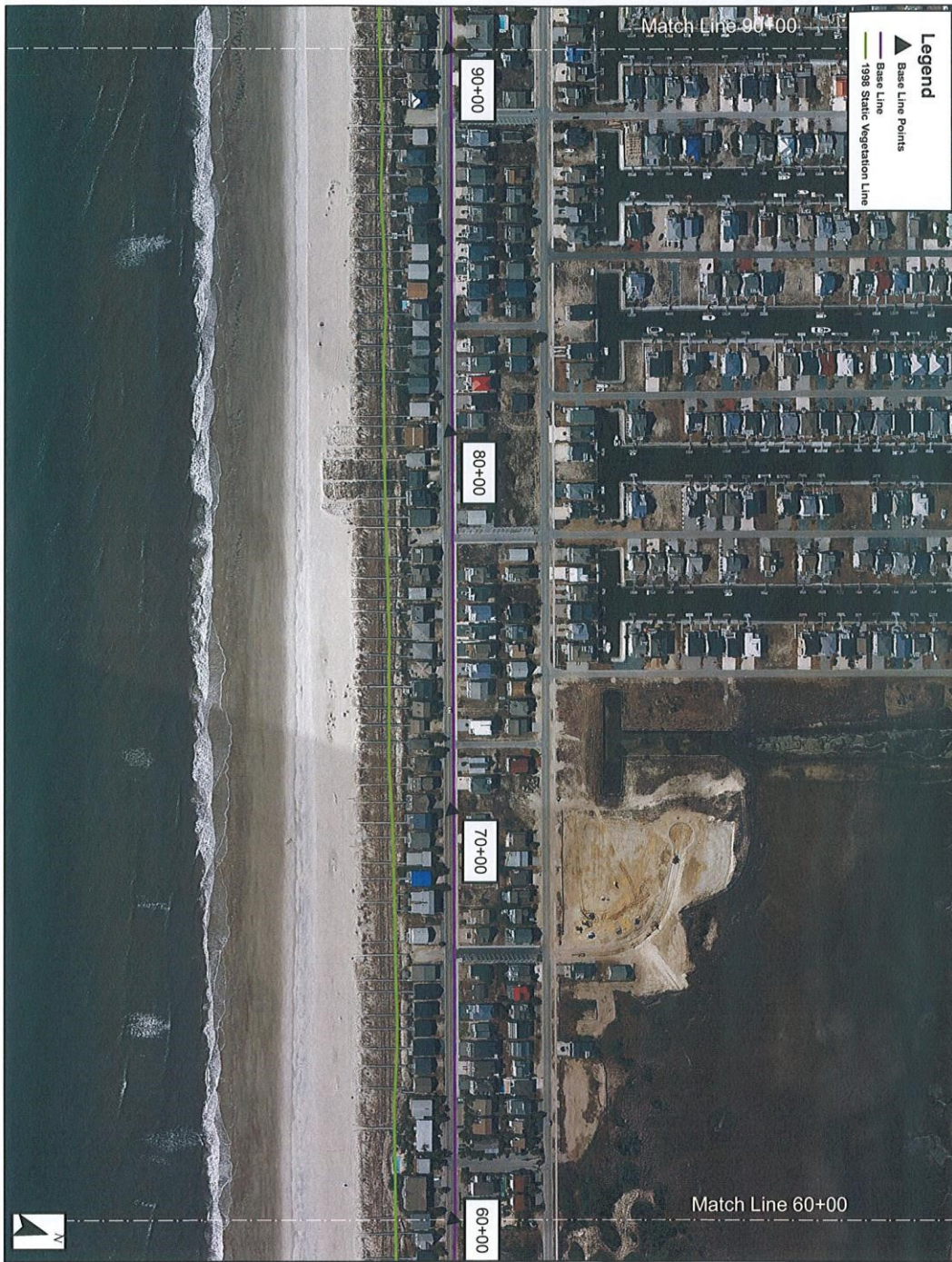


Figure 3c. Ocean Isle Beach Base and Static Vegetation Lines.

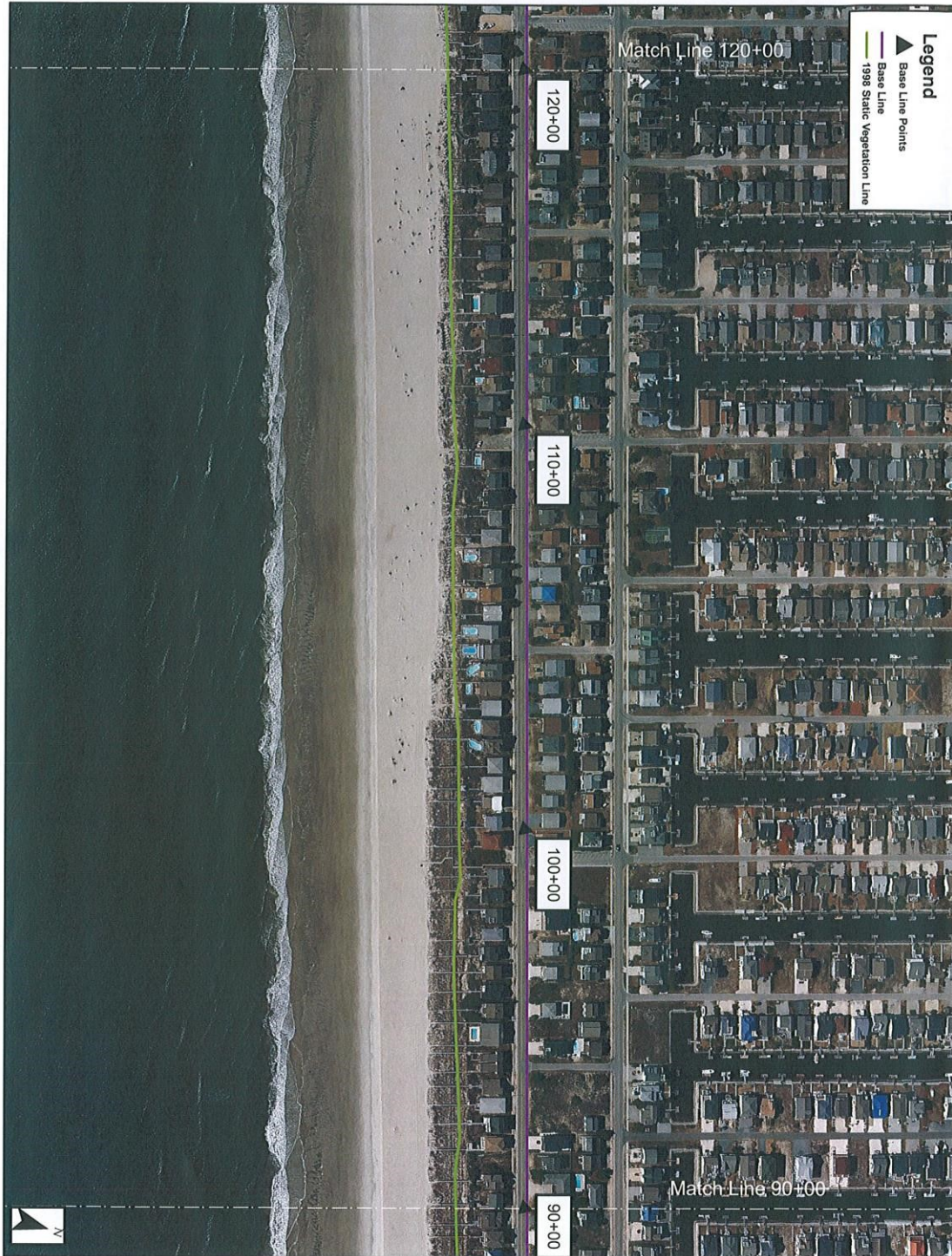


Figure 3d. Ocean Isle Beach Base and Static Vegetation Lines.

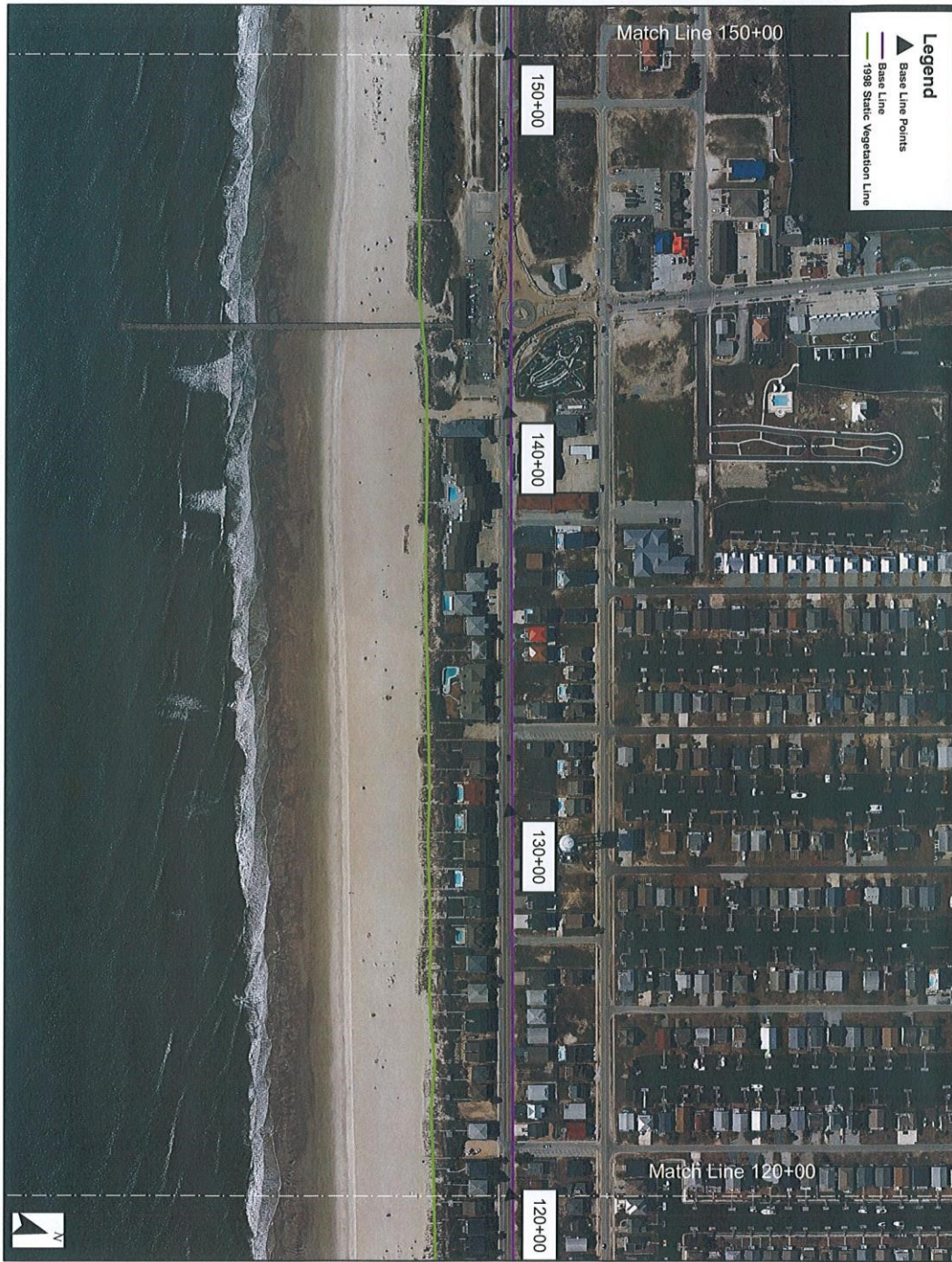


Figure 3e. Ocean Isle Beach Base and Static Vegetation Lines.

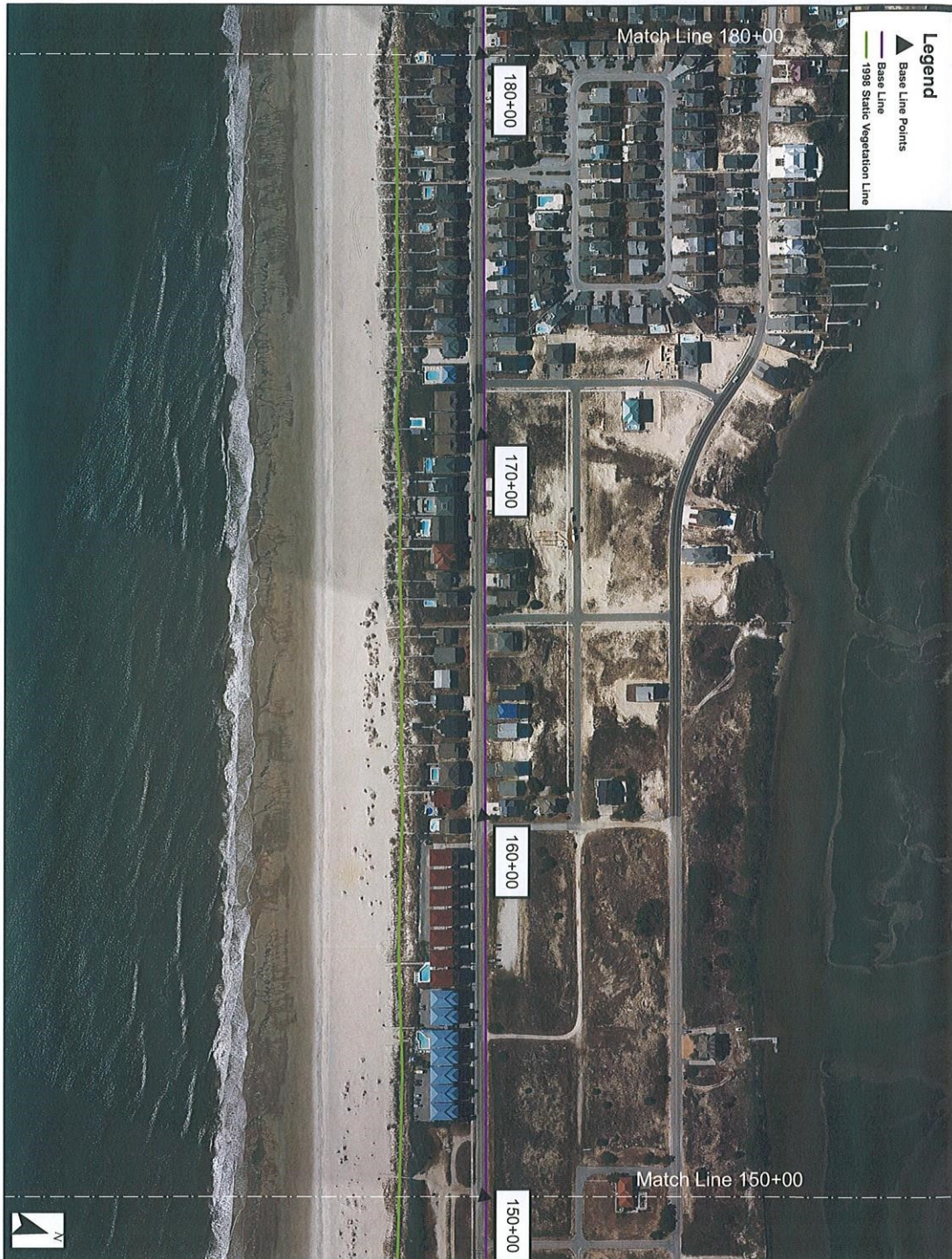


Figure 3f. Ocean Isle Beach Base and Static Vegetation Lines.

4. PROJECT NOURISHMENT HISTORY

a. 2001. The initial stage of construction for the project started in February 2001 and was completed on May 7, 2001. The project consisted of placing 1,952,600 cubic yards of fill over 28,000 feet of shoreline. The project protected approximately 3 ¼ miles of beach along Ocean Isle. The beach was increased in width by 125 feet in areas with a full construction profile. Advanced maintenance fill was also placed at the time of construction which added an additional 50 feet of width to the beach. (See Figure 2a-2b.)

Although the project is scheduled to be completed every 3 years, the initial project performed so well that the first periodical nourishment was not considered necessary until 6 years after the completion of the initial project construction.

b. 2006-2007. Beginning in November 2006 the first project maintenance dredging began. Approximately 409,530 cubic yards of sand was placed on the beach from Station 10 to Station 70 (Shallotte Boulevard to approximately Southport Street). (See Figure 4.)

c. 2009-10. Beginning in the winter of late 2009 and finishing in early 2010, this project placed approximately 500,000 cubic yards of sand from Station 10 to Station 130. (See Figure 5)

d. 2014. Completed in the early spring of 2014, this maintenance project placed over 800,000 cubic yards of sand on the strand. The material was placed from Station 10 to Station 90 (See Figure 6)

e. 2018. Completed in April of 2018, this maintenance project placed 369,400 cubic yards of sand on the strand from Station 10 to Station 59+24.

f. Ocean Isle Beach Historic Funding Sources. The source of funds used for each of the nourishment events listed in Table 1 is provided in Table 2.

Table 1. Ocean Isle Beach Nourishment History

Nourishment Dates	Borrow Area ¹	Placement Area (Stations.) ²	Pay Yardage (cy)	Cost of Operation	Cost Per Cubic Yard
Feb. 2001	Shallotte Inlet	10 to 180	1,952,600	\$5,135,338.00	\$2.63
Nov. 06– Dec. 06	Shallotte Inlet	10 to 72	540,347	\$2,019,176.26	\$4.94
Dec. 09 - March 10	Shallotte Inlet	10 to 130	509,200	\$5,923,077.00	\$7.00
Dec. 13 – April 14	Shallotte Inlet	10 to 90	800,000	\$7,045,750	\$8.81
March 2018	Shallotte Inlet	10 to 59+24	369,400	\$3,293,316	\$8.92

¹ Borrow area shown on Figure 7.

² Stations in 100's feet (Figure 1).

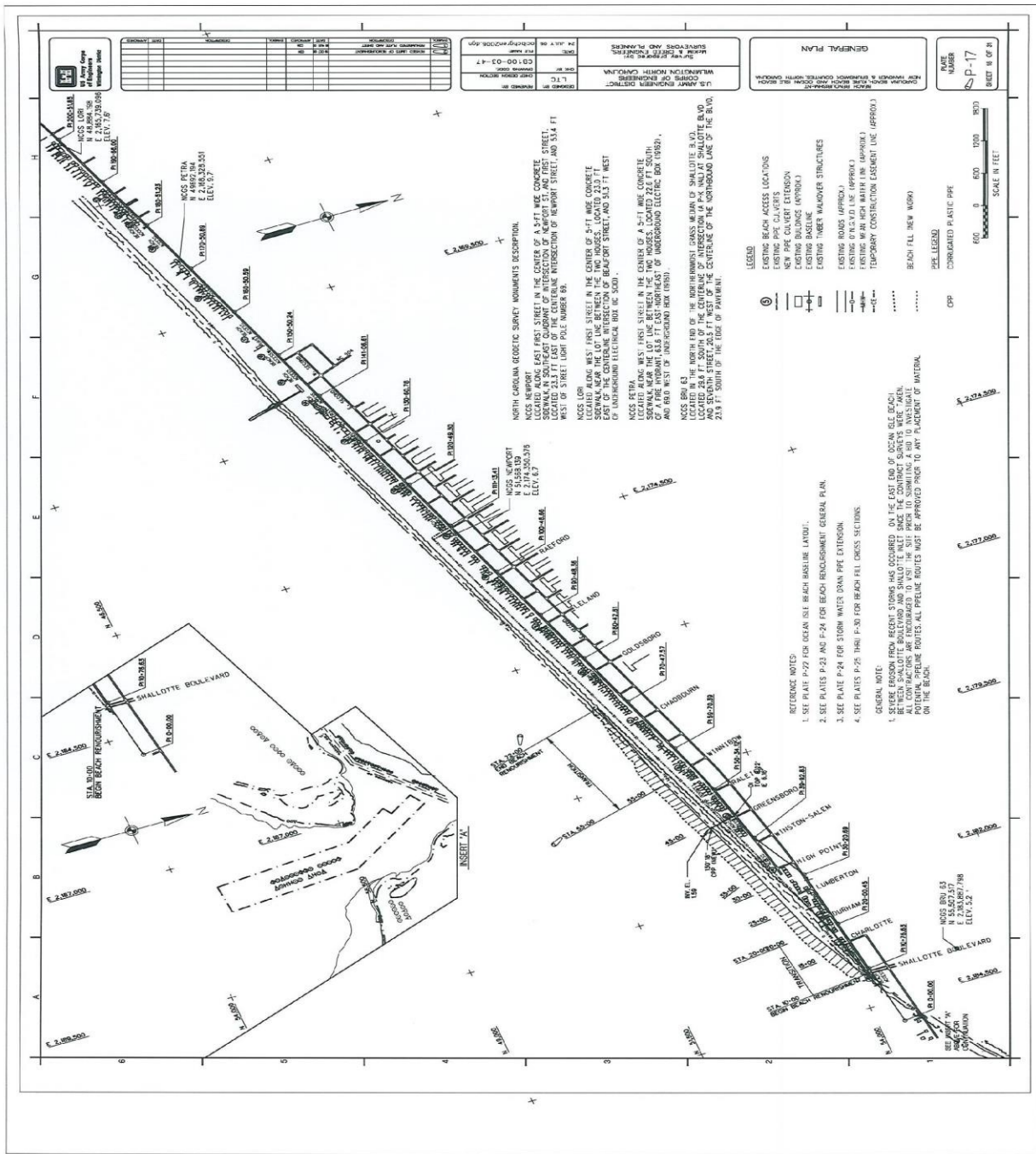


Figure 4. 2006 General Plan.

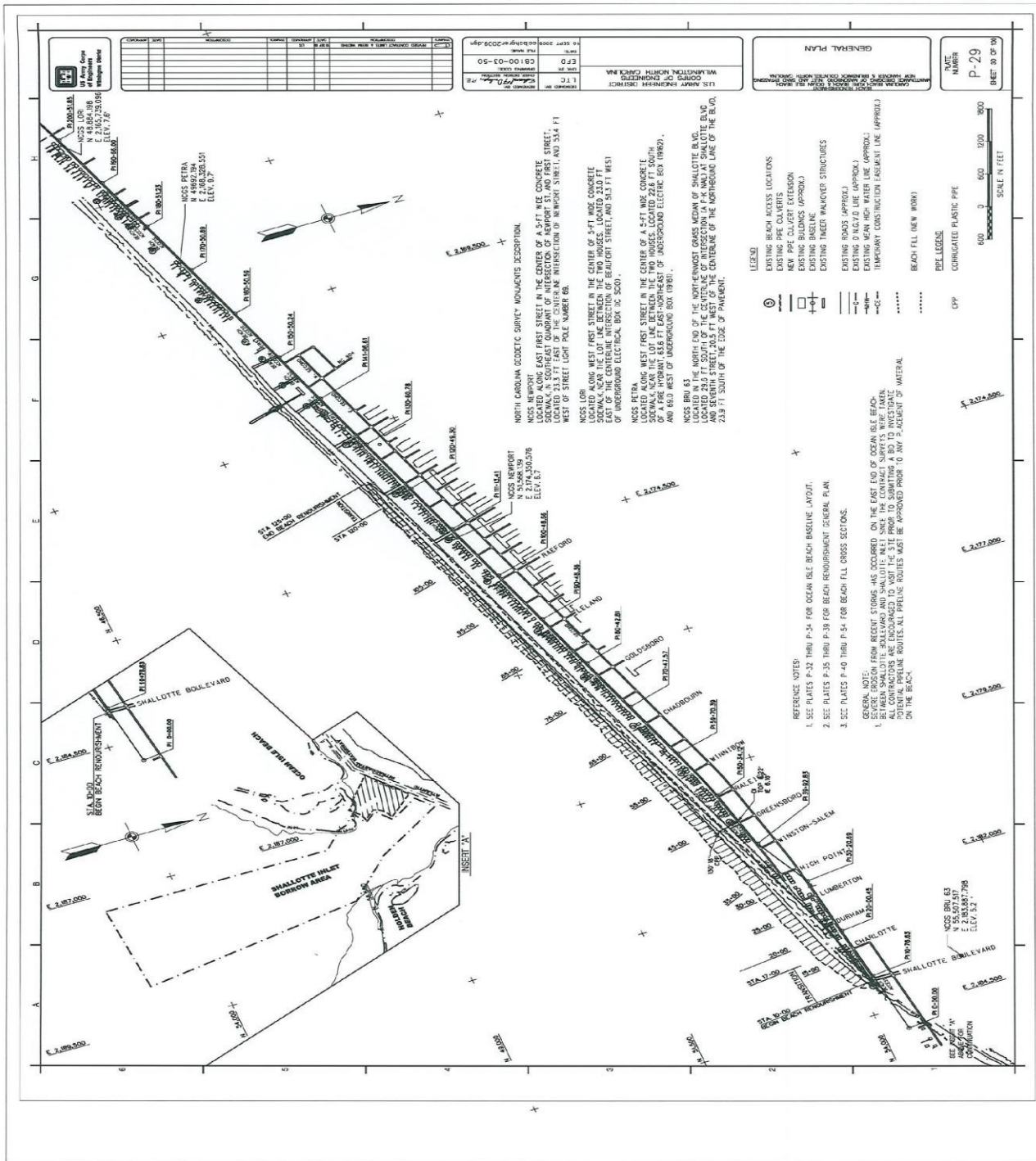


Figure 5. 2009-2010 General Plan.

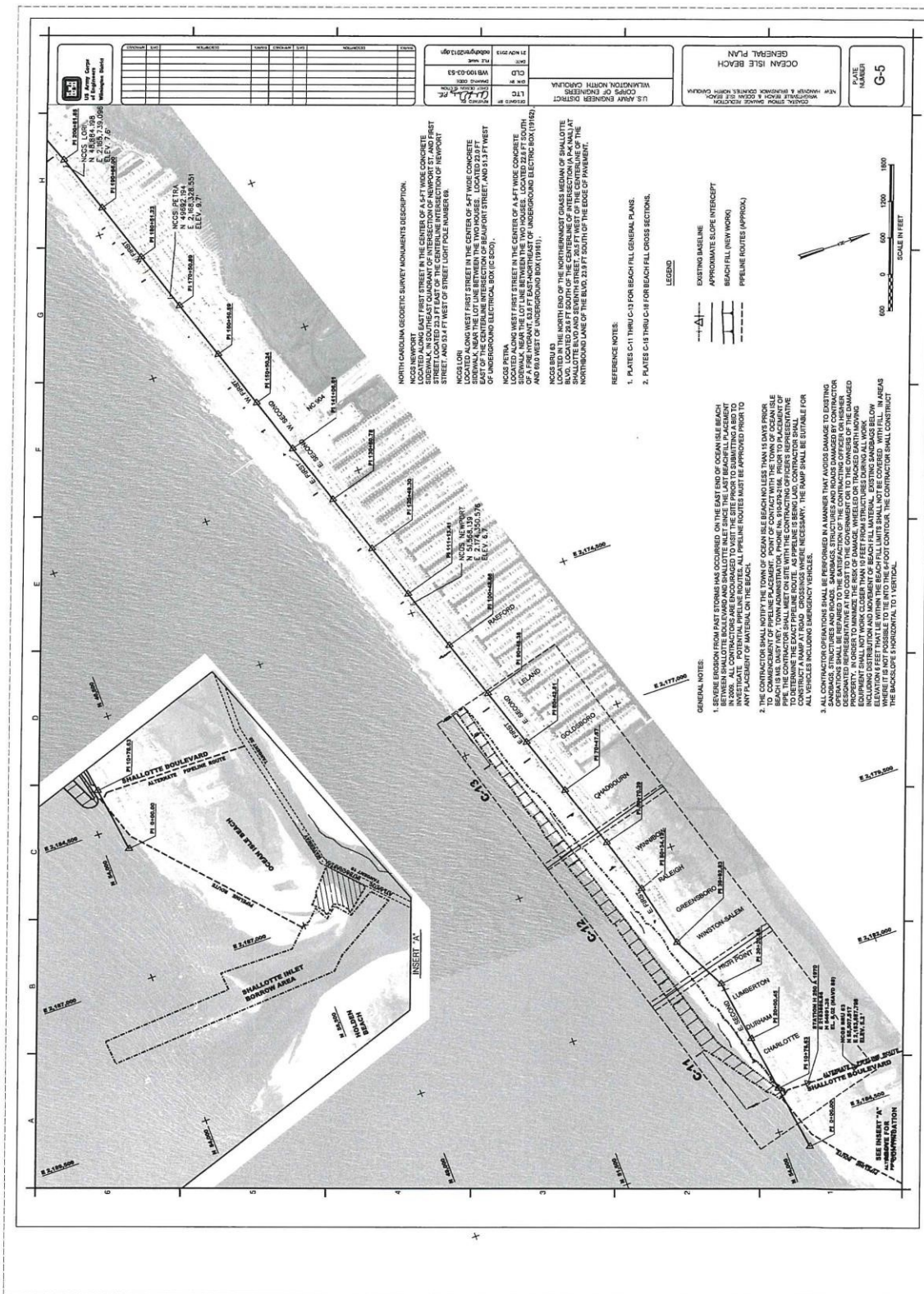


Figure 6. 2014 General Plan.

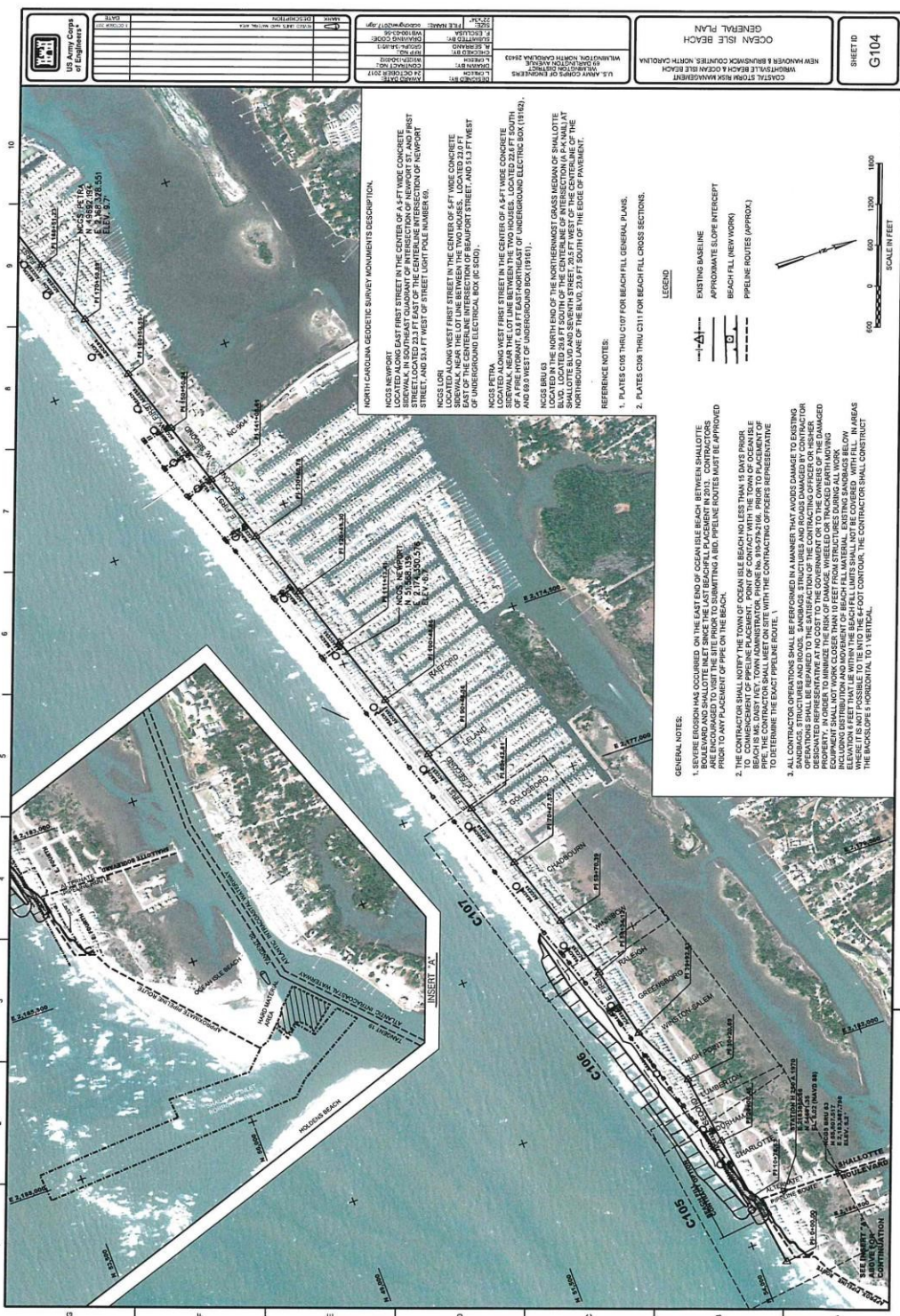


Figure 7. 2018 General Plan.

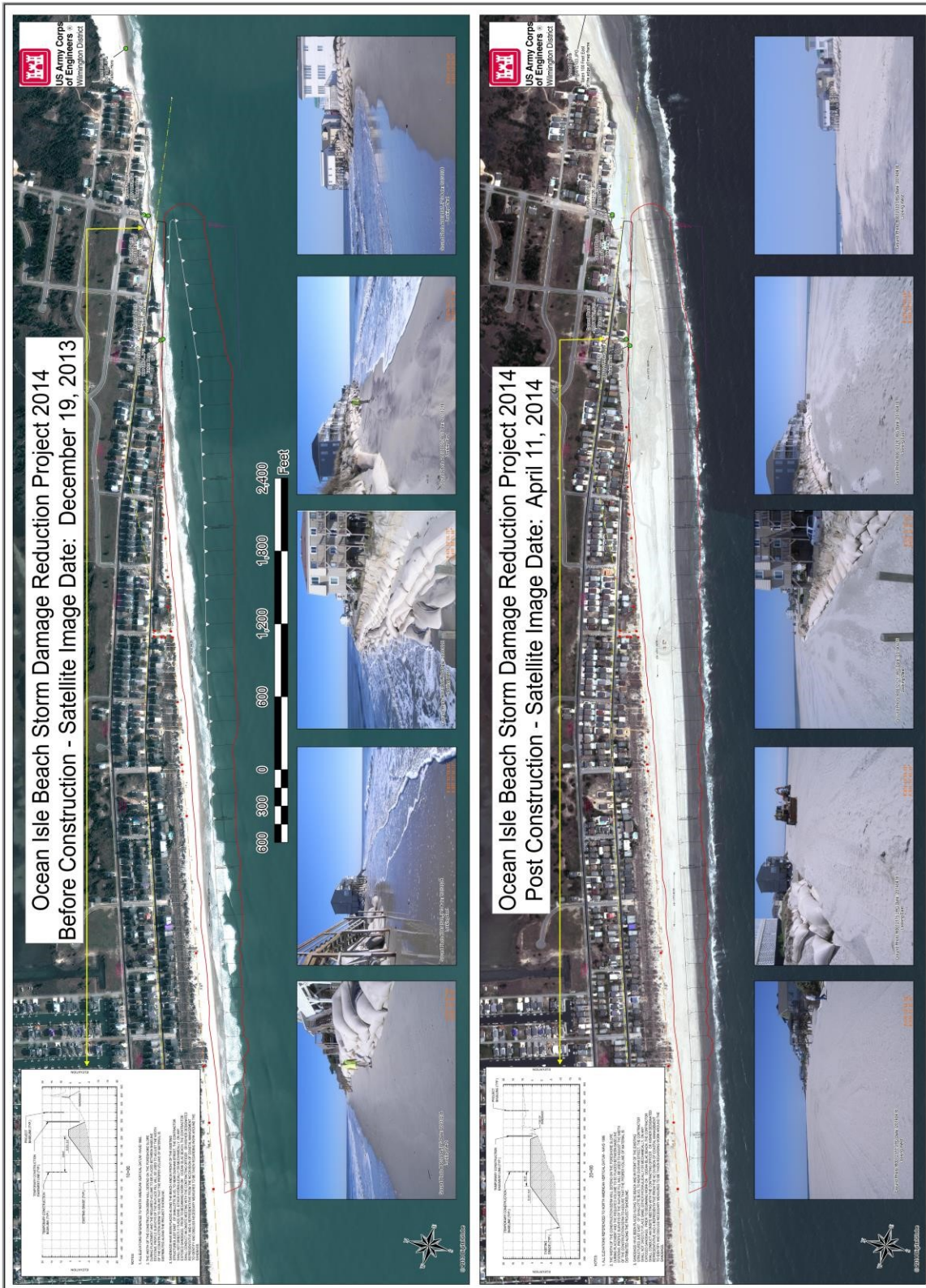


Figure 8. 2014 Pre and Post Project Images



Figure 8a. 2018 Pre and Post Project Images

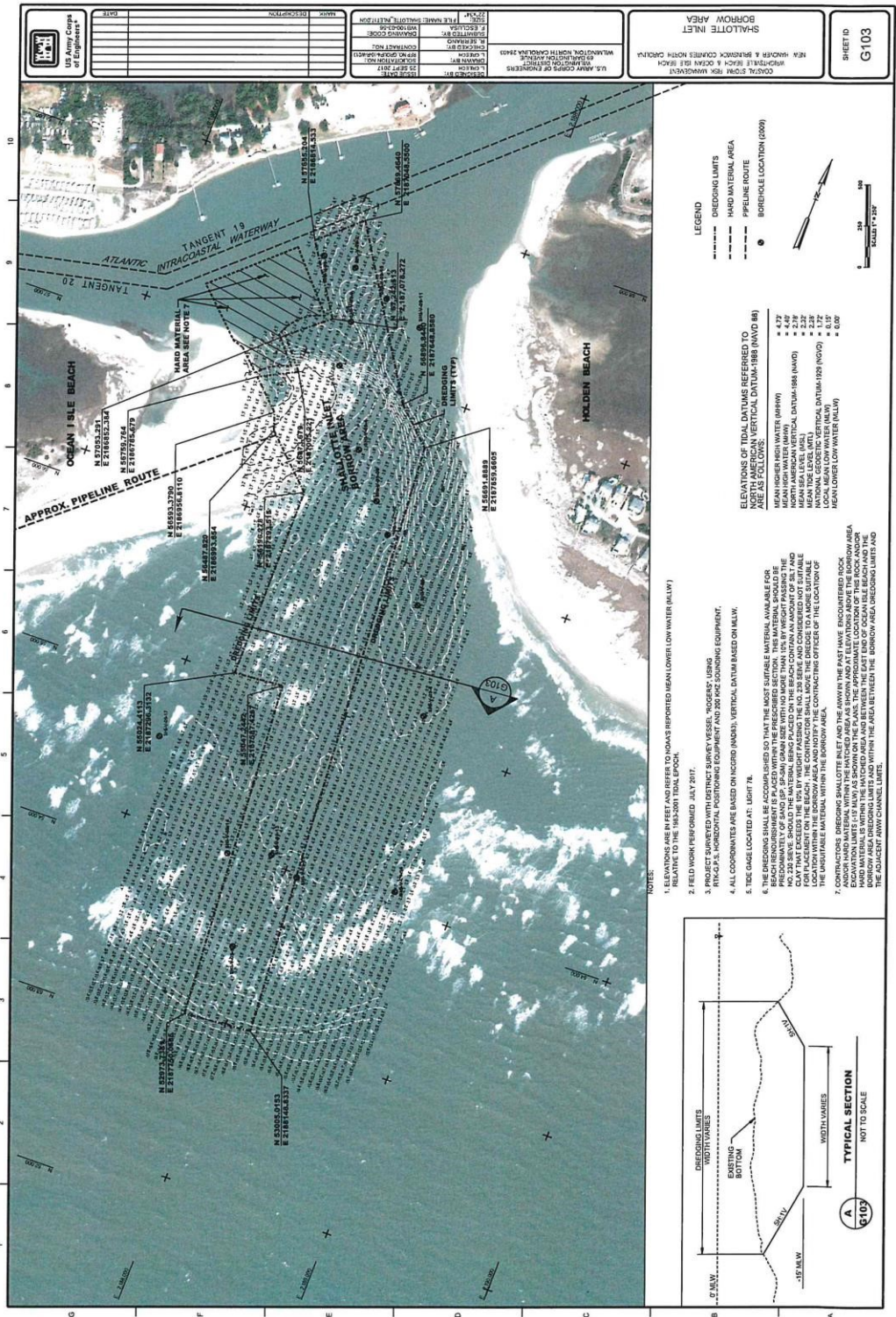


Figure 9. 2018 Shallotte Inlet Borrow Area.

Table 2. Ocean Isle Beach Funding Sources

Nourishment Dates	Federal Funding Source	Non-Federal	Cost of Operation
Feb. 2001	\$3,337,969	\$1,797,369	\$5,135,338
Nov. 06– Dec. 06	\$1,312,464.26	\$706,712	\$2,019,176.26
2009-2010	\$3,850,000	\$2,073,077	\$5,923,077
Dec. 13 – April 14	\$4,604,500	\$2,441,250	\$7,045,750
March – April 2018	\$2,140,655	\$1,052,661	\$3,293,316

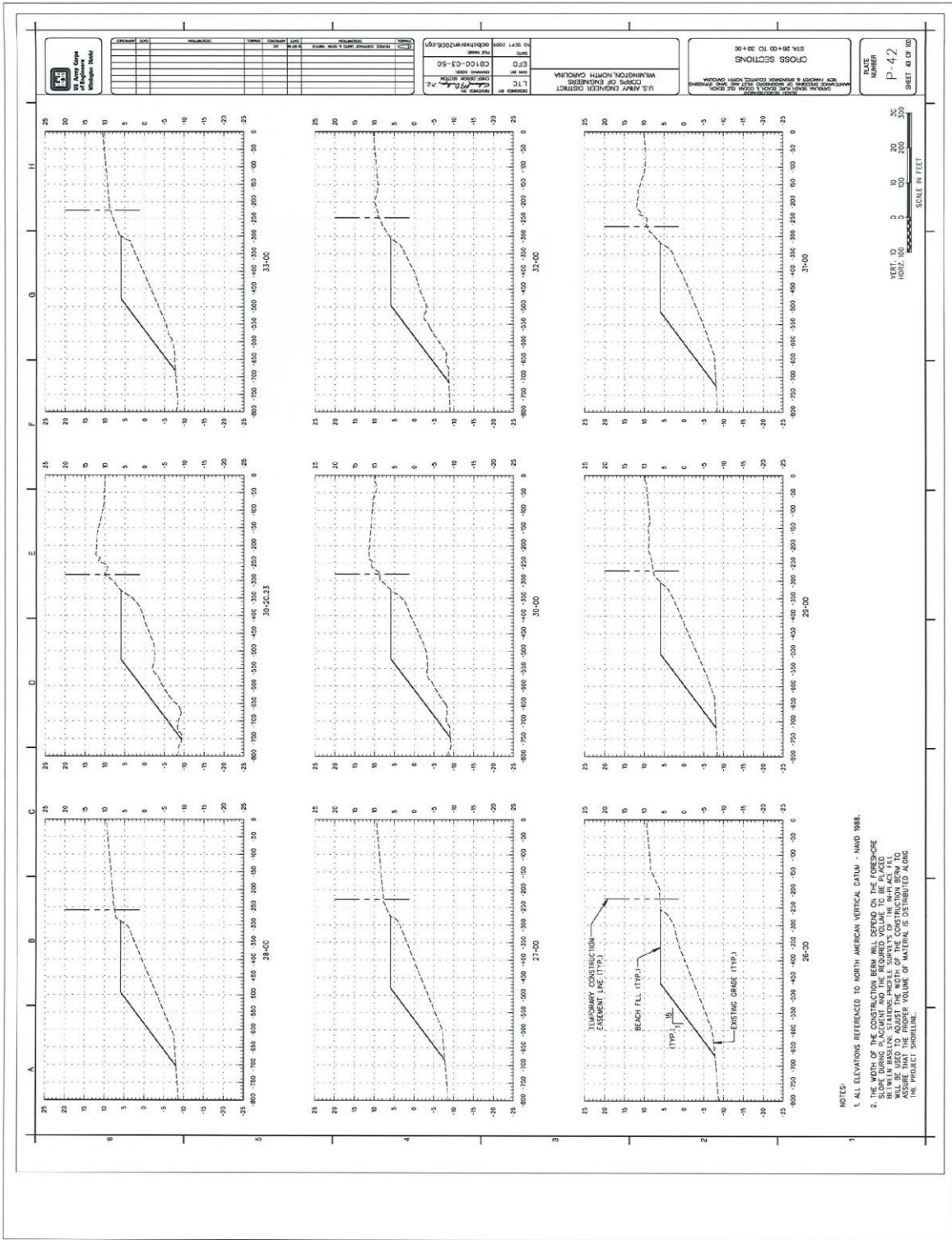
5. PROJECT PERFORMANCE

Overall, the Town of Ocean Isle Beach Erosion Control and Hurricane Wave Protection Project has performed very well. The first Inlet and Shoreline Monitoring Report, prepared in December 2002 showed that approximately 262,000 cubic yards of beachfill was lost during the first year over the entire project area. This represented about 15% of the initial placement volume. Most of the area had experienced losses ranging from less than 50 cubic yards to over 21,000 cubic yards. Some of the larger losses occurred in reaches near the ends of the project, which was not unexpected. (Information taken from *Ocean Isle Beach Nourishment Project: Inlet and Shoreline Monitoring Report No. 1, December 2002*)

A May 2004 survey indicated that the east end of the beachfill placement (Stations 10-80) lost approximately 302,000 cubic yards, while the western part (Stations 90-180) gained 203,000 cubic yards. That represented a net loss of about 99,000 cubic yards over the original fill area between December 2001 and May 2004. In summing the volume changes along the entire beach length, Ocean Isle had about 1,794,000 cubic yards more in the active beach system than since the start of the project. (Information taken from *Ocean Isle Beach Nourishment Project: Inlet and Shoreline Monitoring Report No. 2, June 2005*)

As evident by our previous projects (2006, 2010, 2018) the overall project has performed very well. The majority of the erosion has occurred on the east end of the project. Since the initial project construction, no additional beach fill has been considered necessary west of Station 130 (Just west of Concord Street). Included are selected profiles and surveys from the initial project, the 2006, 2009-10, and 2018 nourishment projects. (Figures 2b, 8a, 8b, and 8c)

Figure 10a. 2006 Station Profiles.



6. FINDINGS

15A NCAC 07J .1204 REVIEW OF THE LARGE-SCALE BEACH-FILL PROJECT AND APPROVED STATIC LINE EXCEPTIONS

(b) The Coastal Resources Commission shall review a static line exception authorized under 15A NCAC 07J .1203 at intervals no greater than every five years from the initial authorization in order to renew its findings for the conditions defined in 15A NCAC 07J .1201(d)(2) through (d)(4). The Coastal Resources Commission shall also consider the following conditions:

- (1) Design changes to the initial large-scale beach fill project defined in 15A NCAC 07J .1201(d)(2) provided that the changes are designed and prepared by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements for work;

Towns Response: There have been no design changes following the granting of the static line exception in 2010.

- (2) Design changes to the location and volume of compatible sediment, as defined by 15A NCAC 07H .0312, necessary to construct and maintain the large-scale beach fill project defined in 15A NCAC 07J .0201(d)(2), including design changes defined in this Rule provided that the changes have been designed and prepared by the U.S. Army Corps of Engineers or person meeting applicable State occupational licensing requirements for the work; and

Town's Response: There have been no design changes to the location and volume of compatible sediment following the granting of the static line exception in 2010. Based on the past performance of the sediment trap/borrow area, the material collected in Shallotte Inlet is sufficient to satisfy future nourishment needs of Ocean Isle Beach indefinitely.

- (3) Changes in the financial resources or funding sources necessary to fund the large-scale beach fill project(s) defined in 15A NCAC 07J .1201(d)(2). If the project has been amended to include design changes defined in this Rule, then the Coastal Resources Commission shall consider the financial resources or funding sources necessary to fund the changes.

Town's Response: Ocean Isle Beach has an established beach renourishment fund that is used to fund beach nourishment projects on Ocean Isle Beach. This fund is presently funded through contributions from the Town's General Fund and Accommodations Tax funds.

House Bill 426 allowed the Town of Ocean Isle Beach the authority to levy a room occupancy and tourism development tax in the amount of three percent (3%) to be used for “tourism-related expenditures”. Session Law 1997-364 Section 11(b) authorized the Town of Ocean Isle Beach Board of Commissioners to levy an additional room occupancy tax of up to two percent (2%) of the gross receipts from the rental of accommodations. The proceeds of this additional tax can only be used for beach renourishment and protection. On July 13, 2010, the Board of Commissioners voted to levy the additional two percent (2%) occupancy tax. This tax became effective on January 1, 2011. Included is a copy of Session Law 1997-364 and a copy of the Resolution levying the additional two percent (2%) tax. These funds are reserved specifically for this purpose.

The present balance in this fund exceeds \$13,000,000.

7. SUMMARY

The Town of Ocean Isle Beach satisfied all of the requirements for the static line exception as stipulated in 15A NCAC 07J .1201 in 2010 and subsequent renewal in 2016. By virtue of this progress report, the Town of Ocean Isle Beach has demonstrated the project has been maintained during the past five-year period and has not deviated from the original project design. We have also demonstrated our commitment to funding future projects. The Town asks that our Static Line Exception be reauthorized.

ATTACHMENT D: Town of Ocean Isle: Resolution to Levy an Additional 2% Occupancy Tax



Town of Ocean Isle Beach

Resolution No. 2010-15

Date Adopted: July 13, 2010

**RESOLUTION TO LEVY AN ADDITIONAL 2% OCCUPANCY TAX
FOR TOWN OF OCEAN ISLE BEACH**

WHEREAS, on January 1, 1984 House Bill 426 was enacted which authorized the Town of Ocean Isle Beach to levy a three (3%) occupancy tax for the Town's tourism related expenditures; and

WHEREAS, in 1997, House Bill 859 also granted the Town of Ocean Isle Beach authorization to levy an additional two percent (2%) room occupancy tax; and

WHEREAS, the Town of Ocean Isle recognizes its unique opportunity to promote economic development, create jobs and enhance the prosperity of the Town through revenue generated by travel and tourism; and

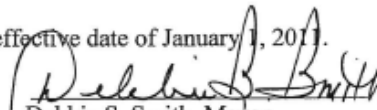
WHEREAS, the Town of Ocean Isle Beach, with its seaside charm and family-friendly atmosphere seeks to promote broader community appeal throughout the state, region and nation; and

WHEREAS, the Board of Commissioners for the Town of Ocean Isle Beach determine it is in the best interest of Ocean Isle Beach to enact an additional two percent (2%) room occupancy tax; which would increase the current occupancy tax of three percent (3%) to five percent (5%); and

WHEREAS, the additional two percent (2%) will be allocated to the Town of Ocean Isle Beach to be used only for beach renourishment and protection within the Town of Ocean Isle Beach. This will provide three percent (3%) for travel and tourism and two percent (2%) will be allocated for beach renourishment.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Town of Ocean Beach hereby levy an additional two percent (2%) occupancy tax of the gross receipts derived from the rental of any room, lodging or accommodation furnished by a hotel, motel, inn, tourist camp or similar place within the Town, that is subject to sales tax imposed by the state under North Carolina General Statute 105-164.4(a) (3) for the uses and purposes hereinabove set forth.

Adopted this 13th day of July, 2010 for an effective date of January 1, 2011.


Debbie S. Smith, Mayor

(SEAL)

SEAL

ATTEST:



Sue Stuhr, Town Clerk

ATTACHMENT F: Session Law 1997-364, House Bill 859

1/13/2020

S.L. 1997-364

GENERAL ASSEMBLY OF NORTH CAROLINA 1997 SESSION

S.L. 1997-364 HOUSE BILL 859

AN ACT TO AUTHORIZE BRUNSWICK COUNTY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX, TO AUTHORIZE CERTAIN MUNICIPALITIES IN BRUNSWICK COUNTY TO LEVY OR INCREASE LOCAL OCCUPANCY TAXES, AND TO AUTHORIZE PERSON COUNTY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. Brunswick County occupancy tax. (a) Authorization and scope. The Brunswick County Board of Commissioners may levy a room occupancy tax of one percent (1%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3) and from the rental of private residences and cottages within the county that are exempt from the sales tax imposed under G.S. 105-164.4(a)(3) solely because they are rented for less than 15 days. This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose, or to accommodations subject to a municipal room occupancy tax at the rate of six percent (6%).

(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

(c) Distribution and use of tax revenue. Brunswick County shall, on a monthly basis, remit the net proceeds of the occupancy tax to the Brunswick Tourism Development Authority. The Authority shall use the funds remitted to it under this subsection to promote travel and tourism in Brunswick County. No more than ten percent (10%) of the funds remitted to the Authority under this subsection may be used for the Authority's administrative expenses, including salaries and benefits.

The following definitions apply in this subsection:

- (1) Net proceeds. - Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the gross proceeds.
- (2) Promote travel and tourism. - To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

Section 2. Brunswick Tourism Development Authority. (a) Appointment and membership. When the board of commissioners of Brunswick County adopts a resolution levying a room occupancy tax under Section 1 of this act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The Authority shall have 10 members appointed by the Brunswick County Commissioners as follows:

- (1) Five individuals who are currently involved in the promotion of travel and tourism, selected by the Brunswick County Commissioners.
- (2) Five individuals selected jointly by the South Brunswick Islands Chamber of Commerce and the Southport-Oak Island Chamber of Commerce.

The resolution shall provide for the members' terms of office and for the filling of vacancies on the Authority. The board of commissioners shall designate one member of the Authority as chair. Members of the Authority shall serve without compensation.

The Authority shall meet monthly and shall adopt rules of procedure to govern its meetings. The Finance Officer for Brunswick County shall be the ex officio finance officer of the Authority.

(b) **Duties.** The Authority shall expend the net proceeds of the tax levied under Section 1 of this act to promote travel and tourism in Brunswick County as provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in the county.

(c) **Reports.** The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 3. County administrative provisions. Section 3(b) of S.L. 1997-102, as amended by Section 2 of S.L. 1997-255 and Section 2 of ratified House Bill 337, 1997 General Assembly, is further amended by adding the phrases "Brunswick," and "Person," in their proper alphabetical order.

Section 4. Conforming change. Section 2(a2) of Chapter 664 of the 1991 Session Laws, as enacted by Chapter 617 of the 1993 Session Laws, is repealed.

Section 5. Municipal administrative provisions. (a) Article 9 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-215. Uniform provisions for room occupancy taxes.

(a) **Scope.** - This section applies only to municipalities the General Assembly has authorized to levy room occupancy taxes. For the purpose of this section, the term 'city' means a municipality.

(b) **Levy.** - A room occupancy tax may be levied only by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto. A room occupancy tax shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.

(c) **Collection.** - Every operator of a business subject to a room occupancy tax shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records and shall be paid by the purchaser to the operator of the business as trustee for and on account of the taxing city. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The taxing city shall design, print, and furnish to all appropriate businesses and persons in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing city a discount equal to the discount the State allows the operator for State sales and use tax.

(d) **Administration.** - The taxing city shall administer a room occupancy tax it levies. A room occupancy tax is due and payable to the city finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the taxing city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A room occupancy tax return filed with the city finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

(e) Penalties. - A person, firm, corporation, or association who fails or refuses to file a room occupancy tax return or pay a room occupancy tax as required by law is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The governing board of the taxing city has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

(f) Repeal or Reduction. - A room occupancy tax levied by a city may be repealed or reduced by a resolution adopted by the governing body of the city. Repeal or reduction of a room occupancy tax shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the resolution was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for a tax that was attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal or reduction."

(b) This section applies only to the municipalities in Brunswick County.

Section 6. Shallotte occupancy tax. (a) Authorization and scope. The Board of Aldermen of the Town of Shallotte may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3) and from the rental of private residences and cottages within the town that are exempt from the sales tax imposed under G.S. 105-164.4(a)(3) solely because they are rented for less than 15 days. This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

(c) Distribution and use of tax revenue. The Town of Shallotte shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Shallotte Tourism Development Authority. The Authority shall use at least one-half of the funds remitted to it under this subsection to promote travel and tourism in Shallotte and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

- (1) Net proceeds. - Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. - To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. - Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 7. Shallotte Tourism Development Authority. (a) Appointment and membership. When the Board of Aldermen of the Town of Shallotte adopts a resolution levying a room occupancy tax under Section 6 of this act, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The Authority shall have five members appointed by the board of aldermen. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members must be

individuals who are currently active in the promotion of travel and tourism in the town. The Board of Aldermen of the Town of Shallotte shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for the Town of Shallotte shall be the ex officio finance officer of the Authority.

(b) **Duties.** The Authority shall expend the net proceeds of the tax levied under Section 6 of this act for the purposes provided in Section 6 of this act. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

(c) **Reports.** The Authority shall report quarterly and at the close of the fiscal year to the Board of Aldermen of the Town of Shallotte on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 8. Caswell Beach occupancy tax changes. Section 1 of Chapter 664 of the 1991 Session Laws reads as rewritten:

"Section 1. Caswell Beach Occupancy Tax. (a) **Authorization and Scope.** The Board of Commissioners of the Town of Caswell Beach may ~~by resolution, after not less than 10 days' public notice and a public hearing held pursuant thereto,~~ levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations within the town that are subject to sales tax imposed by the State under G.S. 105-164.4(a)(3) and from the rental of private residences and cottages within the town that are exempt from the sales tax imposed under G.S. 105-164.4(a)(3) solely because they are rented for less than 15 days.

(a1) **Authorization of Additional Tax.** In addition to the tax authorized by subsection (a) of this section, the Board of Commissioners of the Town of Caswell Beach may levy an additional room occupancy tax of up to two percent (2%) of the gross receipts derived from the rental of accommodations taxable under subsection (a). The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. The Town of Caswell Beach may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

(b) **Administration.** A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

~~Collection. Every operator of a business subject to the tax levied by this act shall, on and after the effective date of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the town. The occupancy tax levied under this act shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the owner of the business. The town shall design, print, and furnish to all appropriate businesses in the town the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~(e) **Administration.** The town shall administer the occupancy tax levied under this act. A tax levied under this act is due and payable to the town tax collector in monthly installments on or before the fifteenth day of the month following the month in which the tax accrues. Every person, firm, or corporation liable for the tax shall, on or before the fifteenth day of each month, prepare and render a return on a form prescribed by the town. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the town tax collector under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

(d) ~~Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars (\$10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional penalty of five percent (5%) for each additional month or fraction thereof until the tax is paid. The board of commissioners may, for good cause shown, compromise or forgive the additional tax penalties imposed by this subsection.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this act or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both.~~

~~(e)(c) Use of Proceeds. The town may use the proceeds of a tax levied under this act subsection (a) of this section only for tourism-related expenditures. As used in this act, section, the term 'tourism-related expenditures' includes the following types of expenditures: criminal justice system, fire protection, public facilities and utilities, health facilities, solid waste and sewage treatment, and the control and repair of waterfront erosion. These funds may not be used for services normally provided by the town on behalf of its citizens unless these services promote tourism and enlarge its economic benefits by enhancing the ability of the town to attract and provide for tourists.~~

~~The town may use the proceeds of a tax levied under subsection (a1) of this section only for beach renourishment and protection.~~

~~(f) Effective Date of Levy. A tax levied under this act shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month; however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. The Board of Commissioners of the Town of Caswell Beach may by resolution repeal a tax levied under this act. Repeal of a tax levied under this act shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this act does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal."~~

Section 9. Holden Beach occupancy tax changes. Section 1 of Chapter 963 of the 1987 Session Laws reads as rewritten:

"Section 1. Occupancy tax. (a) Authorization and scope. The Holden Beach Town Council may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a room occupancy tax of no more than three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(3)-105-164.4(a) (3) and on the rental of all private residences and cottages, regardless of whether the residence or cottage is rented for less than 15 days. This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(a1) Authorization of additional tax. In addition to the tax authorized by subsection (a) of this section, the Holden Beach Town Council may levy an additional room occupancy tax of up to two percent (2%) of the gross receipts derived from the rental of accommodations taxable under subsection (a). The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. The Holden Beach Town Council may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied

under this section.

~~Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the town. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The town shall design, print, and furnish to all appropriate businesses and persons in the town the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~(e) Administration. The town shall administer a tax levied under this section. A tax levied under this section is due and payable to the Holden Beach tax collector in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the town. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A return filed with the tax collector under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

The tax collector may collect any unpaid taxes levied under this ~~act~~ section through the use of attachment and garnishment proceedings as provided in G.S. 105-368 for collection of property taxes. The tax collector has the same enforcement powers concerning the tax imposed by this act as does the Secretary of Revenue in enforcing the State sales tax under G.S. 105-164.30.

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this section shall pay a penalty of ten dollars (\$10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this section or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both. The town council may, for good cause shown, compromise or forgive the penalties imposed by this subsection.~~

~~(e)(c) Distribution and use of tax revenue. The tax collector shall remit the proceeds of this tax to the town on a monthly basis. The funds received by the town pursuant to this act proceeds of the tax levied under subsection (a) of this section shall be allocated to a special fund and used only for tourism-related expenditures. As used in this act, the term 'tourism-related expenditures' includes the following types of expenditures: criminal justice system, fire protection, public facilities and utilities, health facilities, solid waste and sewage treatment, and the control and repair of water front erosion. These funds may not be used for services normally provided by the town on behalf of its citizens unless these services promote tourism and enlarge its economic benefits by enhancing the ability of the town to attract and provide for tourists.~~

The town may use the proceeds of a tax levied under subsection (a.1) of this section only for beach renourishment and protection.

~~(f) Effective date of levy. A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this section may be repealed by a resolution adopted by the Holden Beach Town Council. Repeal of a tax levied under this section shall become effective on the~~

~~first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal."~~

Section 10. Ocean Isle Beach occupancy tax changes. Part IX of Chapter 908 of the 1983 Session Laws, as amended by Chapter 985 of the 1983 Session Laws and Chapter 857 of the 1989 Session Laws, as it relates to the Town of Ocean Isle Beach only, is reenacted and rewritten as Section 11 of this act.

Section 11. **Ocean Isle Beach occupancy tax.** (a) Authorization and scope. The Board of Commissioners of the Town of Ocean Isle Beach may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3) and from the rental of private residences and cottages, whether or not the residence or cottage is rented for less than 15 days. This tax is in addition to any State or local sales tax.

(b) **Authorization of additional tax.** In addition to the tax authorized by subsection (a) of this section, the Board of Commissioners of the Town of Ocean Isle Beach may levy an additional room occupancy tax of up to two percent (2%) of the gross receipts derived from the rental of accommodations taxable under subsection (a). The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. The town council may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

(c) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

The tax collector may collect any unpaid taxes levied under this section through the use of attachment and garnishment proceedings as provided in G.S. 105-368 for collection of property taxes. The tax collector has the same enforcement powers concerning the tax imposed by this act as does the Secretary of Revenue in enforcing the State sales tax under G.S. 105-164.30.

(d) Distribution and use of tax revenue. The Town of Ocean Isle Beach may use the proceeds of the tax levied pursuant to subsection (a) of this section only for tourism-related expenditures. As used in this section, "tourism-related expenditures" includes any of the following expenditures: criminal justice system, fire protection, public facilities and utilities, health facilities, solid waste and sewage treatment, and the control and repair of waterfront erosion. The term does not include, however, expenditures for services normally provided by the town on behalf of its citizens unless these services promote tourism and enlarge its economic benefits by enhancing the ability of the town to attract and provide for tourists.

The Town of Ocean Isle Beach may use the proceeds of the tax levied pursuant to subsection (b) of this section only for beach renourishment and protection.

Section 12. Sunset Beach occupancy tax changes. Section 1 of Chapter 956 of the 1987 Session Laws reads as rewritten:

"Section 1. Occupancy tax. (a) Authorization and scope. The Sunset Beach Town Council may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of no more than three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the town that is subject to sales tax imposed by the State under G.S. ~~105-164.4(3)~~ 105-164.4(a)(3) and on the rental of all private residences and cottages, regardless of whether the residence or cottage is rented for less than 15 days. This tax is in addition to any State or local sales tax. This tax

ATTACHMENT G: Town of Carolina Beach Static Line Re-Authorization Report



Town of Carolina Beach Static Line Exception Progress Report.

**Prepared By:
The Town of Carolina Beach**

January 2020

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8. Purpose

The federal storm damage reduction project has served the Town well over the last 50 years and continued nourishment of the project will continue to provide storm damage reduction to the Town’s infrastructure and development within the Town. Also, in order to retain its Static Vegetation Line Exception granted by the NC Coastal Resources Commission (CRC) on September 9, 2009 and reauthorized on May 14, 2014, the Town must provide a progress report to the CRC every 5 years describing the condition of the project and an update of the requirements outlined in the Static Vegetation Line Exception rule (15A NCAC 07J).

9. Project Description

The Carolina Beach federal storm damage reduction project was authorized by Congress in 1962 (House Document Number 418, 87th Congress, 2nd Session). The project extends along 14,000 lineal feet of ocean shoreline as shown in Figure 1. As originally authorized, the project consisted of a beach fill shaped in the form a 25-foot wide dune with a crest elevation of 12.5 feet above North American Vertical Datum (NAVD) fronted by a 50-foot wide storm berm at elevation 9.5 feet above NAVD. The project was later modified to include a 2,075-foot long rock revetment at the extreme north end of the project which is fronted by a 130-foot wide berm at elevation 5.5 feet above NAVD. The crest elevation of the revetment is at 9.5 feet NAVD. The authorization also included periodic nourishment

of the project with the nourishment interval estimated to be approximately every three years. Maintenance of the rock revetment is a non-federal responsibility. The plan layout of the project is shown in Figure 2 with typical profiles of the beach fill and revetment sections shown in Figures 3 and 4, respectively. The Carolina Beach portion of the authorized project was re-evaluated in February 1993 under authority provided by Section 934 of the Water Resources Development Act of 1986 (PL 99-662) and found to be eligible for continued Federal participation in beach nourishment for the remaining economic life of the project (USACE 1993). Construction of the Carolina Beach portion of the project was initiated in 1964; therefore, federal cost-sharing for storm damage reduction was authorized to continue through the year 2014. The federal participation in periodic nourishment expired in 2014 and the U.S. Army Corps of Engineers - Wilmington District (USACE) was authorized a 6-year extension through the Water Resources Reform and Development Act (WRRDA) of 2014 and 2016 which allowed the project to successfully compete for its 3-year maintenance cycles in FY2016 and FY2019. The last renourishment interval was completed in 2019 and federal participation would end after 2020. With a determination of continued Federal interest, obtaining authorization in the Water Resources Development Act (WRDA) of 2020 would facilitate the uninterrupted continuation of cost-shared periodic renourishment cycles scheduled for construction initiation in fall 2021. Continuation of this project allows the opportunity for Federal participation in periodic renourishment through 2036.

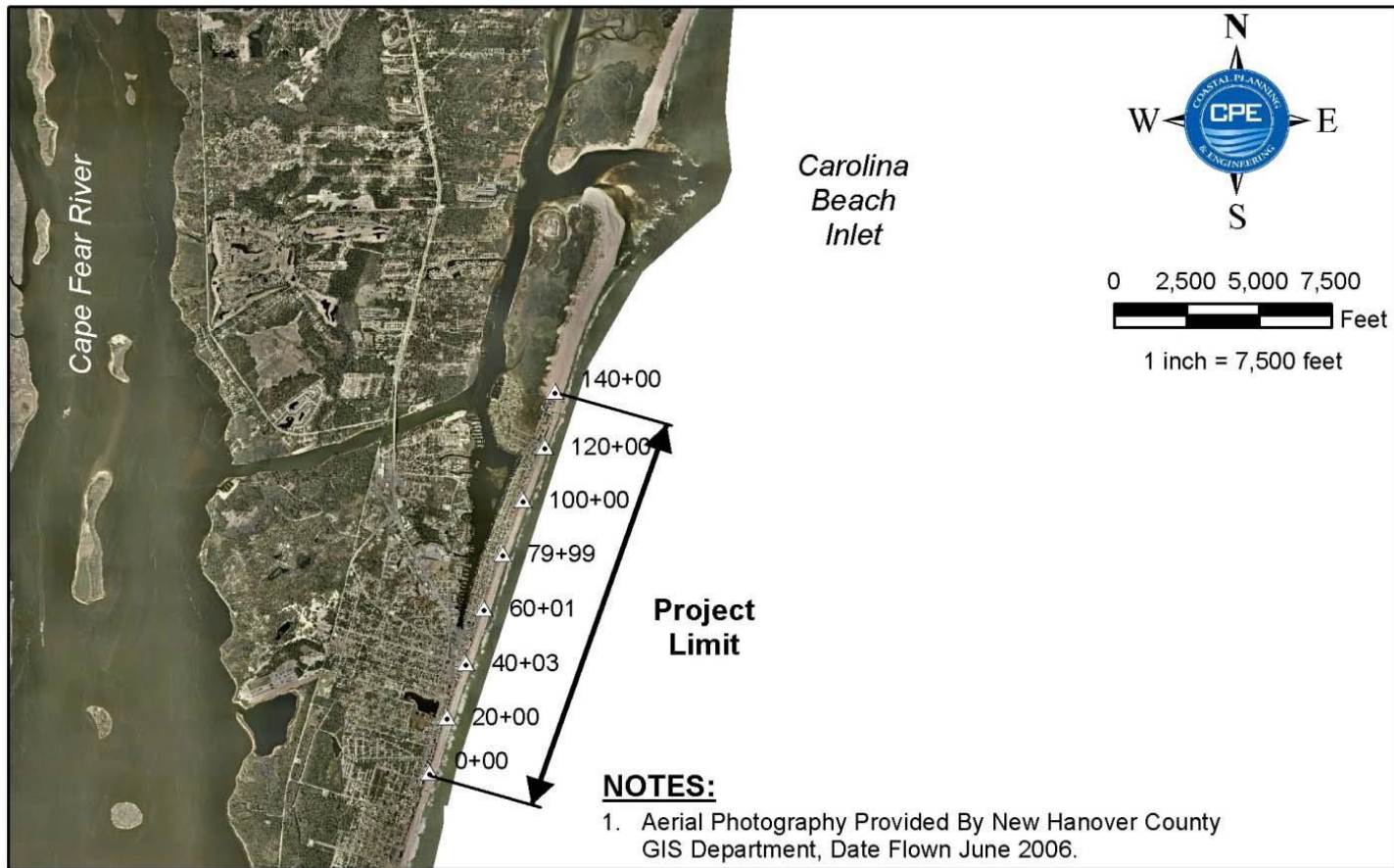


Figure 1. Carolina Beach project limits and baseline stations.

The Area South portion of the Carolina Beach and Vicinity CSRMs is immediately adjacent on the south side of the Carolina Beach portion of the project. The Area South portion was authorized along with the entirety of the Carolina Beach and Vicinity CSRMs by the Flood Control Act of 1962. The Area South Portion called for protecting 18,000 feet of shoreline within the town limits of Kure Beach and a very small portion of the southern part of Carolina Beach. Initial construction was completed in 1998. Since initial construction, Area South has shared the same three-year renourishment intervals with Carolina Beach. The sand source that Area South utilizes, referred to as Borrow Area B, has also been evaluated as an alternative borrow source in the Carolina Beach Renourishment Evaluation Report (BRER) analysis.

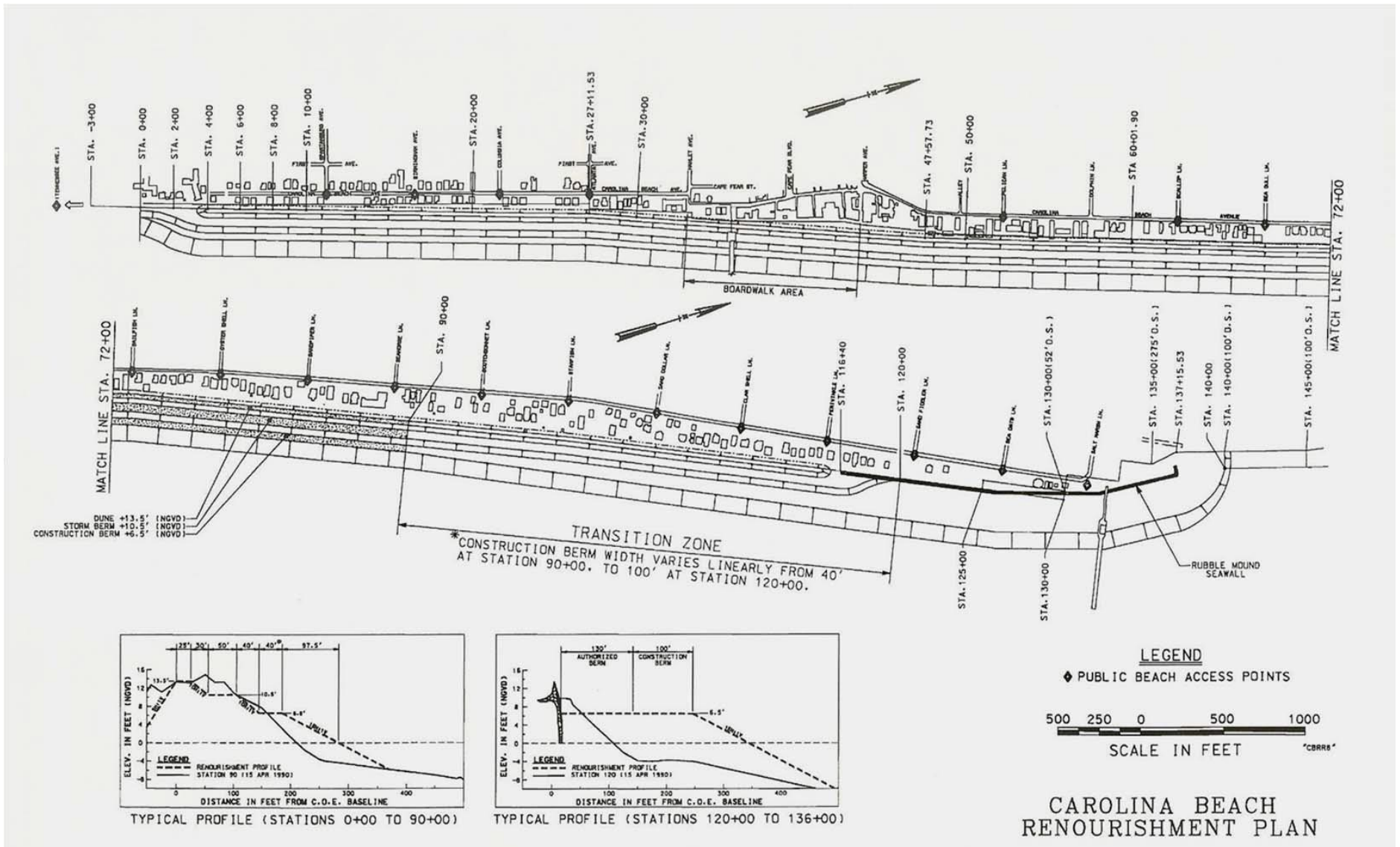


Figure 2. Carolina Beach – Beach Fill Plan.

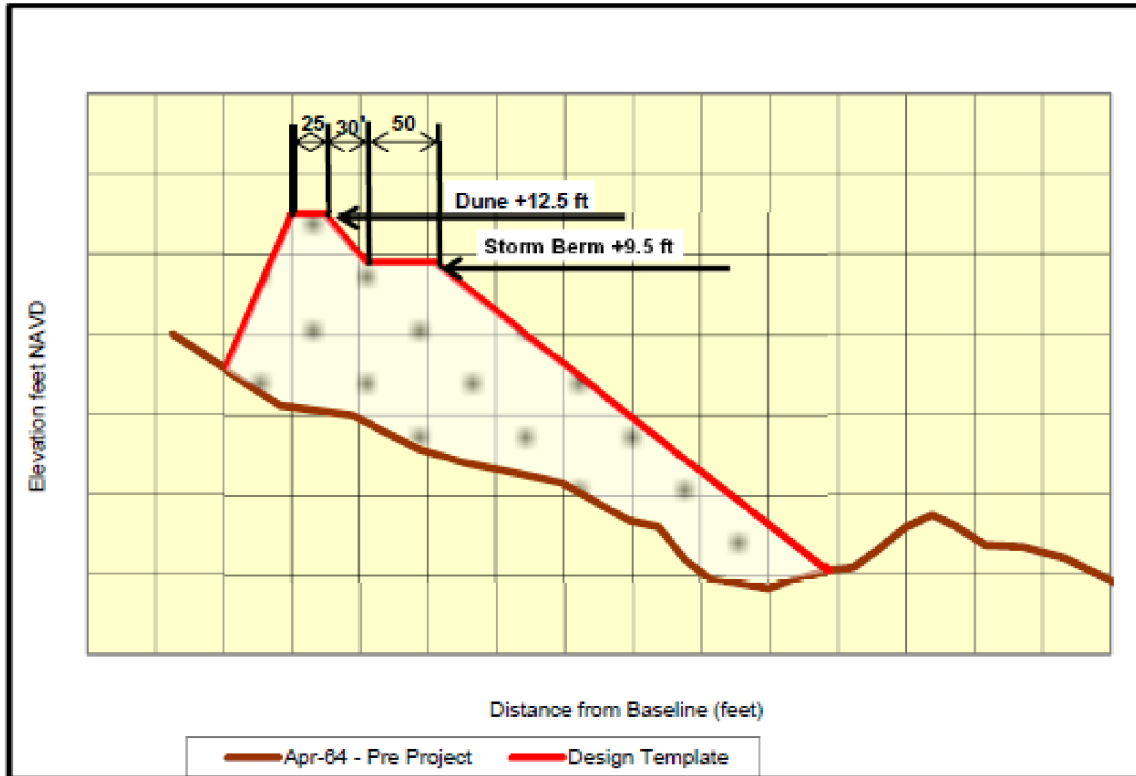


Figure 3. Authorized beach fill cross-section (stations 0+00 to 116+40)

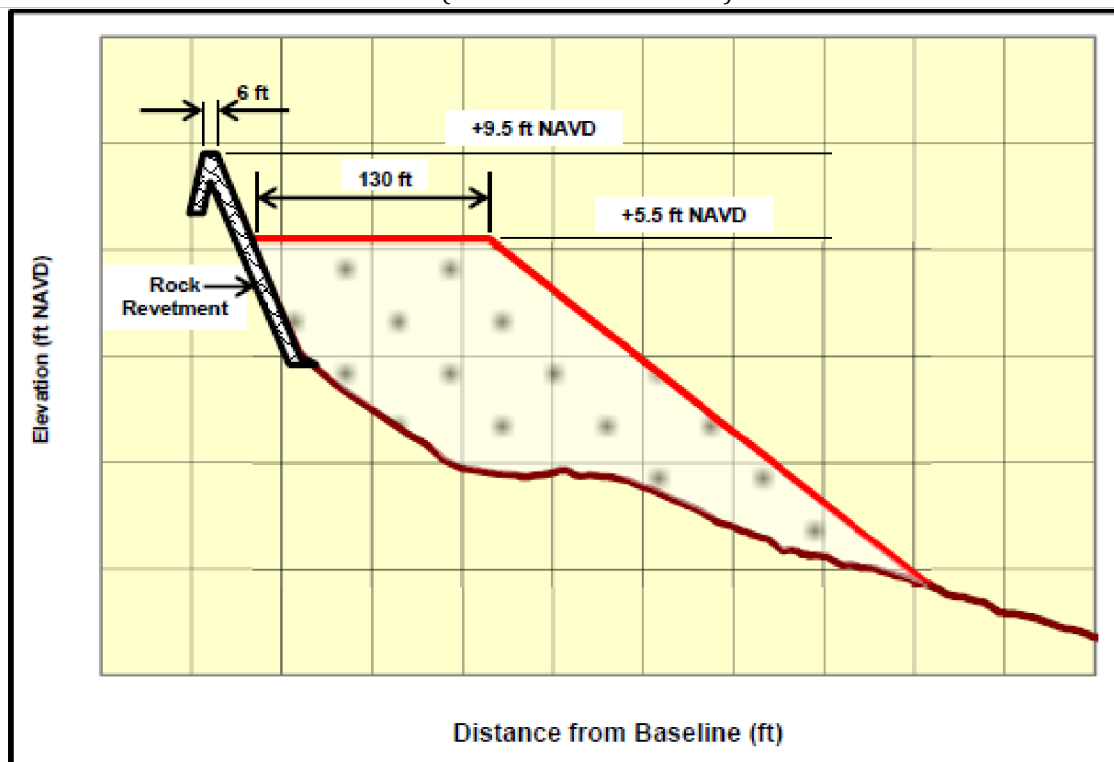


Figure 4. Rock revetment cross-section (stations 116+40 to 137+20)

10. Storm Damage Reduction Projects

The federal projects covering Carolina Beach and Kure Beach were most recently nourished in 2019. The two projects were successful in securing federal funding. A breakdown of the nourishment volumes and cost contributions for the two projects from 2019 to 2010 is as follows:

2019 Nourishment

Carolina Beach Portion:

Nourishment Volume = 1,255,981 cy

Initial Construction:

\$7,325,000 (Federal – 65%)
\$3,944,000 (Non-Federal – 35%)
(\$3,936,000) (Non-Federal Cash Contribution)
(\$8,000) (Non-Federal Lands and Damages)
\$11,269,000

Periodic Nourishment:

\$32,454,000 (Federal – 65%)
\$17,476,000 (Non-Federal – 35%)
\$49,930,000

Total Estimated Project Cost:

\$39,779,000 Federal
\$21,420,000 Non-Federal
\$61,199,000 Total

Area South Portion:

Nourishment Volume = 625,502 cy

Initial Construction:

\$9,603,000 (Federal – 65%)
\$5,171,000 (Non-Federal – 35%)
(\$4,770,000) (Non-Federal Cash Contribution)
(\$401,000) (Non-Federal Lands and Damages)
\$14,774,000

Periodic Nourishment:

\$99,353,000 (Federal – 65%)
\$53,498,000 (Non-Federal – 35%)
\$152,851,000

Total Estimated Project Cost:

\$108,956,000 Federal
\$58,669,000 Non-Federal
\$167,625,000 Total

Attachment 2 provided by the Army Corps of Engineers shows the before and after results of the 2019 Periodic Nourishment Event.

2016 Nourishment

Carolina Beach Project:
Nourishment Volume: 890,000 cy
Total Cost = \$12,300,000
Federal (65%) = \$7,995,000
Non-Federal (35%) = \$4,305,000

2013 Nourishment

Carolina Beach Project:
Nourishment Volume = 989,200 cy
Total Cost = \$6,500,000
Federal = \$4,200,000
State = \$ 0
County = \$2,300,000

Area South Project:
Nourishment Volume = 557,702 cy
Total Cost = \$5,900,000
Federal = \$3,900,000
State = \$1,180,000
County = \$ 900,000

2010 Nourishment

Nourishment Volume = 440,00 cy
Total Cost = \$5,809,718
Federal: \$3,776,317
State: \$1,016,701
New Hanover County: \$1,016,701

2019 Sand Placement Event

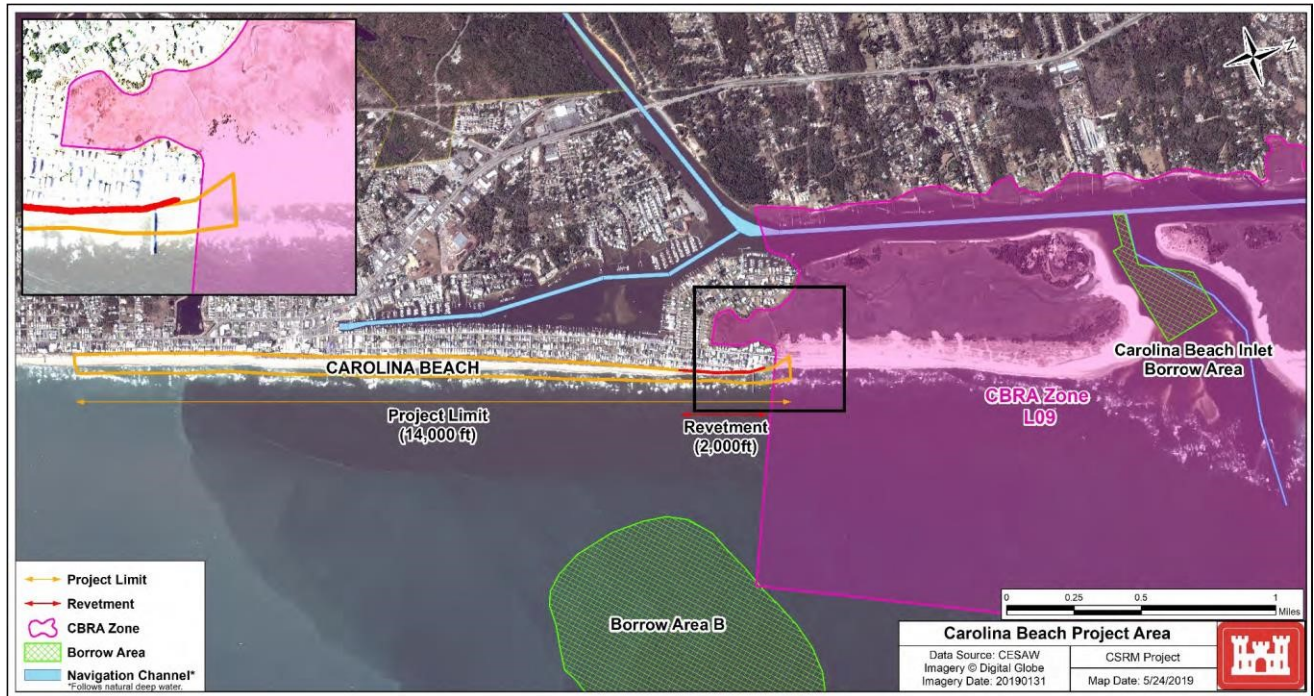


Figure 5. 2019 Carolina Beach Project Area (USACE)

In 2019, a USACE CSDR project was completed on Carolina Beach and Kure Beach along three reaches of shoreline: 1) Transect 1 to Transect 20 in Carolina Beach, 2) Transect 20 in Carolina Beach to halfway between Transects 6 and 7 in Kure Beach, and 3) Transect 10 to Transect 20 in Kure Beach. USACE records indicate that approximately 1,057,267 cy of material was placed on Carolina Beach (dredged from Carolina Beach Inlet) and 824,216 cy of material was placed on Kure Beach (dredged from an offshore borrow area). However, the USACE defines the boundary between Carolina Beach and Kure Beach to be at Transect CB20. The NHCSMP defines the boundary between Carolina Beach and Kure Beach as the municipal bounds, located between Transect CB23 and Transect KB01. Therefore, if these boundaries are taken into account, a portion of the Kure Beach placement was actually placed in Carolina Beach. Taking this into consideration, Figure 8 shows the approximate placement areas and volumes within Carolina Beach and Kure Beach municipal bounds for the 2019 CSDR project. (NHC Shoreline Mapping Program, 2019)

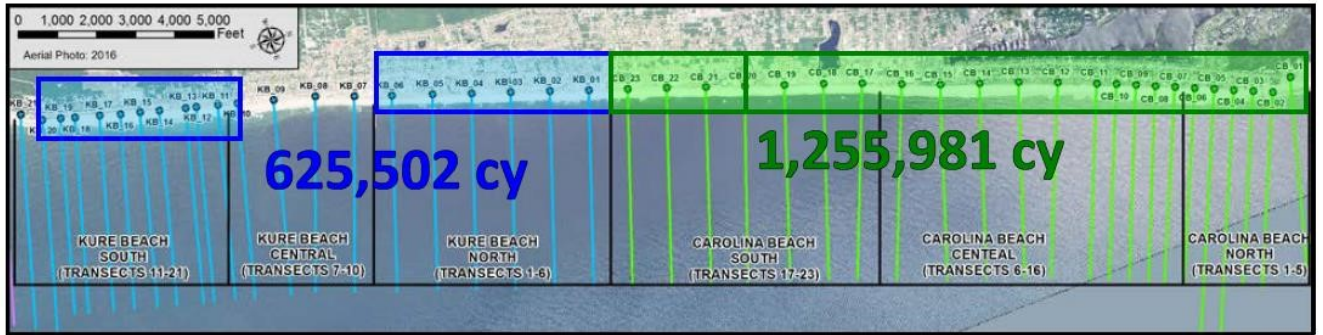


Figure 6. 2019 Carolina Beach and Kure Beach CDSR Project

Project Funding:

The authorization in the Water Resources Development Act (WRDA) of 2020 would facilitate the uninterrupted continuation of cost-shared periodic renourishment cycles scheduled for construction initiation in fall 2021. Continuation of Federal Participation in the project would be anticipated to be cost-shared 50 percent Federal and 50 percent non-Federal. Cost sharing for periodic renourishments is based on Section 215 of the Water Resources Development Act of 1999. Operations and maintenances costs between scheduled periodic renourishment cycles are estimated at \$95,000 a year and would be a 100 percent non-Federal responsibility.

Inter-local Agreement

The primary funding mechanism (Federal Project Cooperation Agreement) remains current for the Carolina Beach Coastal Storm Damage Reduction Project. A second federal funding mechanism is now in place in the form of contributing authority approved by Congress in 2012. The contributing authority option allows the nonfederal sponsor the option of augmenting federal funding shortfalls.

A key element of the New Hanover County contingency plan was the adoption of an inter-local agreement (attached), signed by all three beach towns and New Hanover County, that specifies how funds from the New Hanover County beach nourishment fund would be used to support continued periodic nourishment of all three projects in the absence of federal and/or state funding. Under this agreement, if no federal or state funding is provided, the three beach towns would provide 17.5% of the funds needed for periodic nourishment of their respective projects and the County would contribute 82.5%. If some federal and state funding is provided but the combined amount is less than 17.5%, the towns agreed to make-up the difference. For example, if the state provided 10% of the nourishment cost, the towns would provide 7.5%. The remaining balance of 82.5% would be covered by New Hanover County. Considering only funding at current intervals and historical placement volumes, ample funding should be available for the Carolina Beach Coastal Storm Damage Reduction Project for the foreseeable future (greater than 25 years).

In FY 2019, New Hanover County had approximately \$42.1M in room occupancy tax reserve funding for future local match or local participation in beach projects. Annual collections totaled

an estimated \$4M in FY 2019 for CSDR projects and, historically, the fund has grown by approximately 3% per year since 1984. The Town of Carolina Beach has placed an additional \$350,000 in the General Fund for FY 2019-2020 for Beach Maintenance and Storm Damage Prevention (Line Item 10-630-018) to augment Room Occupancy Tax funds and is committed to setting aside additional funds in future budgets.

Future Storm Damage Reduction Cost

Funding Scenario 1. Under Funding Scenario 1, the federal government and the State of North Carolina would continue to fund periodic nourishment of the Carolina Beach project in accordance with past cost sharing agreements. Under this scenario, all of the periodic nourishment costs would be covered by contributions from the federal government (50%), the State of North Carolina (25%) and New Hanover County (25%). This scenario carries a positive New Hanover County ROT balance beyond 2054.

Table 1. Carolina Beach Funding Scenario 1⁽¹⁾: 1.3%/year and 2.0%/year increase in dredging costs.

Year	1.3%/year Increase in Dredging Cost				2%/year Increase in Dredging Cost			
	Total Cost	Fed Share	State Share	County Share	Total Cost	Fed Share	State Share	County Share
2016	\$6,435,000	\$4,182,750	\$1,126,125	\$1,126,125	\$6,569,000	\$4,269,850	\$1,149,575	\$1,149,575
2019	\$6,689,000	\$4,347,850	\$1,170,575	\$1,170,575	\$6,972,000	\$4,531,800	\$1,220,100	\$1,220,100
2022	\$6,954,000	\$4,520,100	\$1,216,950	\$1,216,950	\$7,398,000	\$4,808,700	\$1,294,650	\$1,294,650
2025	\$7,228,000	\$4,698,200	\$1,264,900	\$1,264,900	\$7,851,000	\$5,103,150	\$1,373,925	\$1,373,925
2028	\$7,514,000	\$4,884,100	\$1,314,950	\$1,314,950	\$8,332,000	\$5,415,800	\$1,458,100	\$1,458,100
2031	\$7,811,000	\$5,077,150	\$1,366,925	\$1,366,925	\$8,842,000	\$5,747,300	\$1,547,350	\$1,547,350
2034	\$8,119,000	\$5,277,350	\$1,420,825	\$1,420,825	\$9,383,000	\$6,098,950	\$1,642,025	\$1,642,025
2037	\$8,440,000	\$5,486,000	\$1,477,000	\$1,477,000	\$9,957,000	\$6,472,050	\$1,742,475	\$1,742,475
2040	\$8,774,000	\$5,703,100	\$1,535,450	\$1,535,450	\$10,566,000	\$6,867,900	\$1,849,050	\$1,849,050
2043	\$9,120,000	\$5,928,000	\$1,596,000	\$1,596,000	\$11,213,000	\$7,288,450	\$1,962,275	\$1,962,275
2046	\$9,481,000	\$6,162,650	\$1,659,175	\$1,659,175	\$11,900,000	\$7,735,000	\$2,082,500	\$2,082,500
2049	\$9,855,000	\$6,405,750	\$1,724,625	\$1,724,625	\$12,628,000	\$8,208,200	\$2,209,900	\$2,209,900
2052	\$10,245,000	\$6,659,250	\$1,792,875	\$1,792,875	\$13,401,000	\$8,710,650	\$2,345,175	\$2,345,175
Totals:	\$106,665,000	\$69,332,250	\$18,666,375	\$18,666,375	\$125,012,000	\$81,257,800	\$21,877,100	\$21,877,100

⁽¹⁾Funding by Town not required under Scenario 1.

Funding Scenario 2. Following the nourishment of Carolina Beach and the Area South Project, Funding Scenario 2 assumes if federal and state funding would not be provided for future nourishment Carolina Beach operations. This represents a “worst-case” with regard to county and town funding requirements. Even without future federal funding, there is still a possibility the State of North Carolina would provide some limited funding for future nourishment operations but at this time future state funding remains an uncertainty. Under Funding Scenario 2, the Town of Carolina Beach would be responsible for 17.5% of the periodic nourishment costs with New Hanover County contributing 82.5% of the nourishment costs. This scenario continues to carry a positive New Hanover County ROT balance beyond 2054.

Table 2. Carolina Beach Funding Scenario 2 for 1.3%/year and 2.0%/year increase in dredging costs.

Year	1.3%/year Increase in Dredging Cost			2%/year Increase in Dredging Cost		
	Total Cost	County Share	Town Share	Total Cost	County Share	Town Share
2016	\$6,435,000	\$5,308,875	\$1,126,125	\$6,569,000	\$5,419,425	\$1,149,575
2019	\$6,689,000	\$5,518,425	\$1,170,575	\$6,972,000	\$5,751,900	\$1,220,100
2022	\$6,954,000	\$5,737,050	\$1,216,950	\$7,398,000	\$6,103,350	\$1,294,650
2025	\$7,228,000	\$5,963,100	\$1,264,900	\$7,851,000	\$6,477,075	\$1,373,925
2028	\$7,514,000	\$6,199,050	\$1,314,950	\$8,332,000	\$6,873,900	\$1,458,100
2031	\$7,811,000	\$6,444,075	\$1,366,925	\$8,842,000	\$7,294,650	\$1,547,350
2034	\$8,119,000	\$6,698,175	\$1,420,825	\$9,383,000	\$7,740,975	\$1,642,025
2037	\$8,440,000	\$6,963,000	\$1,477,000	\$9,957,000	\$8,214,525	\$1,742,475
2040	\$8,774,000	\$7,238,550	\$1,535,450	\$10,566,000	\$8,716,950	\$1,849,050
2043	\$9,120,000	\$7,524,000	\$1,596,000	\$11,213,000	\$9,250,725	\$1,962,275
2046	\$9,481,000	\$7,821,825	\$1,659,175	\$11,900,000	\$9,817,500	\$2,082,500
2049	\$9,855,000	\$8,130,375	\$1,724,625	\$12,628,000	\$10,418,100	\$2,209,900
2052	\$10,245,000	\$8,452,125	\$1,792,875	\$13,401,000	\$11,055,825	\$2,345,175
Totals⁽¹⁾	\$106,665,000	\$87,998,625	\$18,666,375	\$125,012,000	\$103,134,900	\$21,877,100

⁽¹⁾Totals include costs for the 2013 operation.

For funding Scenario 2 in which the Town of Carolina Beach and New Hanover County assume responsibility for storm damage reduction projects. New Hanover County annually allocates a portion of ROT funds to cover costs while the Town of Carolina Beach has implemented a strategy to allocate a portion of the revenue from Freeman Park to cover costs.

11. Carolina Beach Inlet Sediment Trap/Borrow Area

The sediment trap/borrow area located is shown in Figure 9. The volume of material collected in the Carolina Beach Inlet sediment trap/borrow area has been sufficient to maintain the Carolina Beach project over the past 35 years. For the periodic nourishment operations conducted for Carolina Beach since 1985, the average volume of material removed from the sediment trap/borrow area has been approximately 880,000 cubic yards. Based on the past performance of the sediment trap/borrow area, the material collected in Carolina Beach Inlet and bypassed to Carolina Beach is sufficient to satisfy future nourishment needs of Carolina Beach.

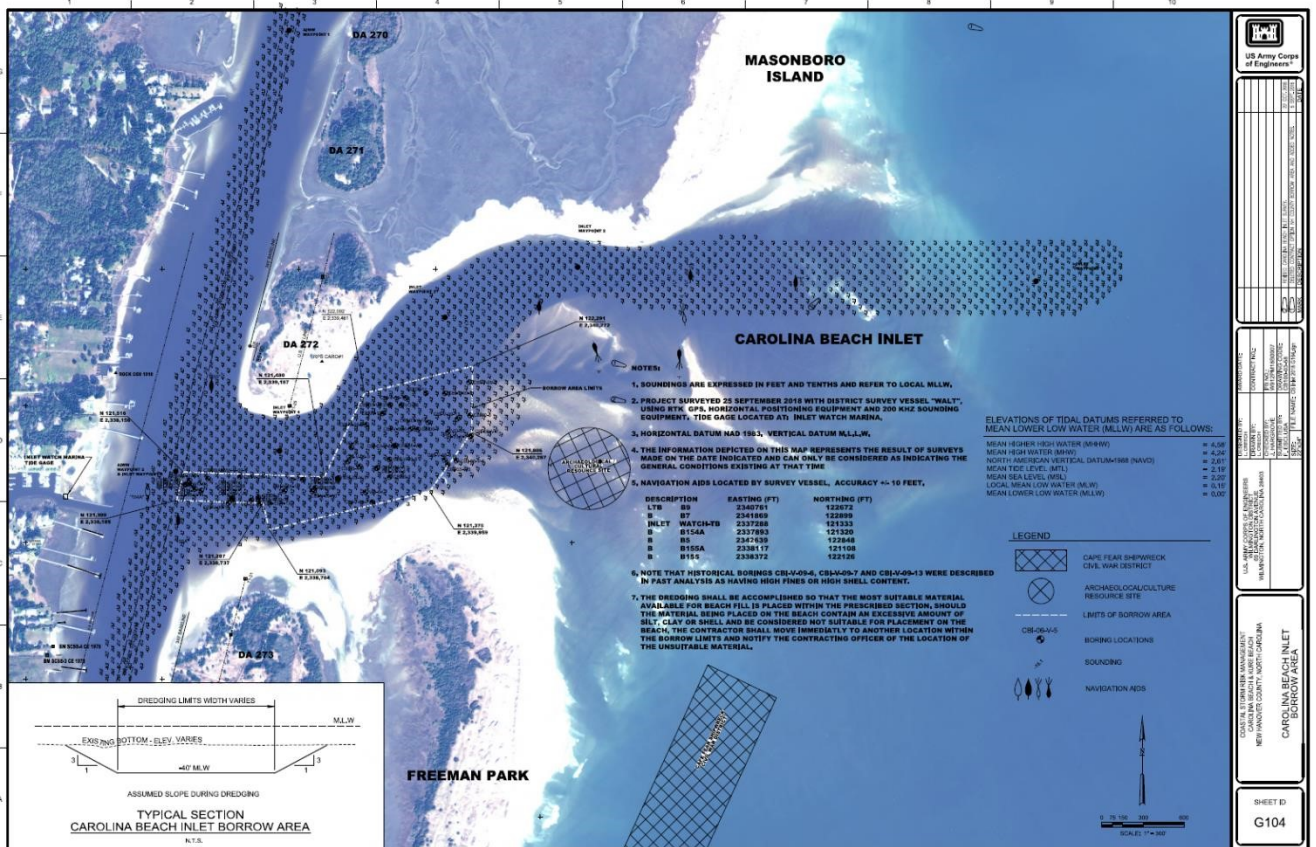


Figure 7. Carolina Beach Inlet Sediment Trap/Borrow Area

Due to the importance of the Carolina Beach Inlet as a borrow source for CDSR projects, shown in Figure 8, it is essential to track the natural morphology of the inlet, specifically the borrow area, on an annual basis between CDSR projects. Therefore, for New Hanover County’s comprehensive mapping program, select USACE hydrographic surveys were downloaded for 2018 and 2019 to determine the changes that have occurred over the past year. Based on the comparison of a March 2018 survey and a January 2019 condition survey (pre-dredge), the Carolina Beach Inlet borrow area gained approximately 230,747 cy of material between March 2018 and January 2019, after which it was dredged for the 2019 Carolina Beach CDSR project. 2019 was the sixth year of New Hanover County’s comprehensive mapping program. With annual monitoring and analysis, these yearly reports will become a useful tool in determining shoreline and volume change trends to help optimize future shoreline management strategies by tracking losses in between CDSR projects.

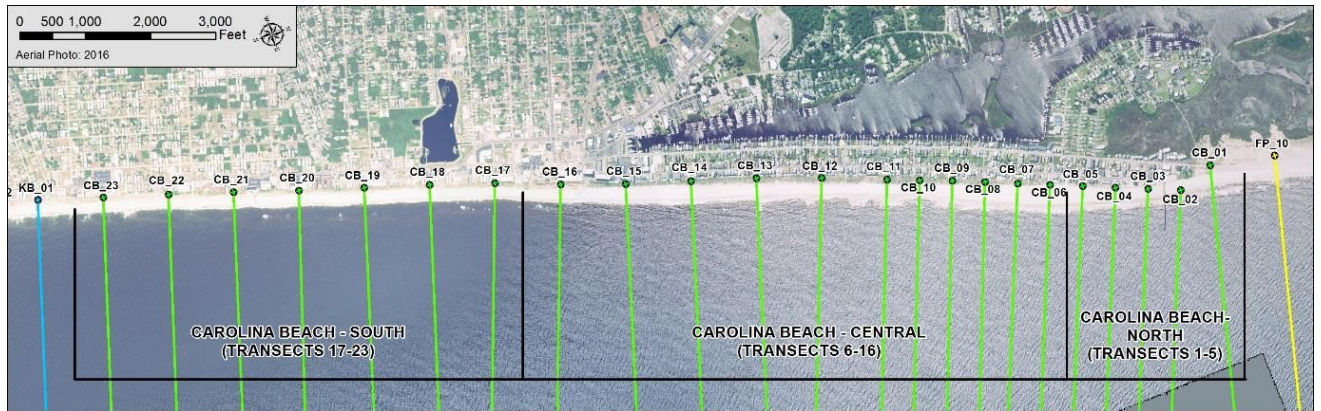


Figure 8. Carolina Beach Survey Reach and Sub-Reaches

12. Project Performance

The Carolina Beach shoreline changes at the recreational berm elevation and at MHW show significant seaward advancement along all of the sub-reaches due to the recent 2019 CSDR project which placed approximately 1.2 Mcy of material in Carolina Beach. The largest seaward advancement occurred in portions of Carolina Beach - North and Carolina Beach - Central due to larger quantities of material being placed in this area to combat elevated erosion rates. Volumetrically, Carolina Beach experienced a significant gain material, totaling 774,716 cy (42.8 cy/ft) above -14 ft NAVD88 over the past year. Since it is estimated that approximately 1,225,981 cy of material was placed within the municipal bounds of Carolina Beach, this indicates that approximately -451,265 cy (-25 cy/ft) of erosion likely took place between the 2018 survey and the beginning of the 2019 CSDR construction. Much of this erosion is likely due to the impacts of Hurricane Florence, making it significantly higher than the background erosion rate of -16.2 cy/ft/yr (-292,855 cy/yr). As with shoreline change, the largest volume accretion occurred in portions of Carolina Beach - North and Carolina Beach - Central due to larger quantities of material being placed in this area to combat elevated erosion rates.

Carolina Beach has a weighted erosion rate of -16.2 cy/ft/yr which indicates significant erosion in the absence of any CSDR projects. (NHC Shoreline Mapping Program, 2019)

13. Review of Approved Static Line Exceptions

The North Carolina Coastal Resources Commission is to review the status of Large-Scale Beach Fill Projects and approved Static Line Exceptions at least every 5 years pursuant to 15A NCAC 07J .1204.

Summary of Findings

15A NCAC 07J .1204 REVIEW OF THE LARGE-SCALE BEACH-FILL PROJECT AND APPROVED STATIC LINE EXCEPTIONS - 2009

(b) The Coastal Resources Commission shall review a static line exception authorized under 15A NCAC 07J .1203 at intervals no greater than every five years from the initial authorization in order to renew its findings for the conditions defined in 15A NCAC 07 1201 (d)(2) through (d)(4). The Coastal Resources Commission shall also consider the following conditions:

- (1) Design changes to the initial large-scale beach fill project defined in 15A NCAC 07J .1201 (d)(2) provided that the changes are designed and prepared by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements for the work;

There have been no design changes following the granting of the static line exception in 2009 by the Coastal Resource Commission. New Hanover County, on behalf of Carolina Beach, have received a local permit for the project using the same design as the US Army Corps of Engineers Project. The purpose of a locally held authorization would be if Federal funding is not available.

- (2) Design changes to the location and volume of compatible sediment, as defined by 15A NCAC 07 H .0312, necessary to construct and maintain the large-scale beach fill project defined in 15A NCAC 07J .1201 (d)(2), including design changes defined in this Rule provided that the changes have been designed and prepared by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements for the work; and

There have been no design changes to the location and volume of compatible sediment following the granting of the static line exception in 2009. New Hanover County received a local permit for the project using the same design as the US Army Corps of Engineers Project.

- (3) Changes in the financial resources or funding sources necessary to fund the largescale beach fill project(s) defined in 15A NCAC 07J .1201 If the project has been amended to include design changes defined in this Rule, then the Coastal Resources

Commission shall consider the financial resources or funding sources necessary to fund the changes.

The primary funding mechanism (Federal Project Cooperation Agreement) remains current for the Carolina Beach Coastal Storm Damage Reduction Project. A second federal funding mechanism is now in place in the form of contributing authority approved by Congress in 2012. The contributing authority option allows the nonfederal sponsor the option of augmenting federal funding shortfalls.

As a local funding strategy, an Inter-local agreement has been approved between New Hanover County and each beach community. The agreement sets percentages of financial participation (attached) in the event shortfalls occur within federal and state budgets. Considering only funding at current intervals and historical placement volumes, ample funding should be available for the Wrightsville Beach Coastal Storm Damage Reduction Project for the foreseeable future (greater than 25 years).

New Hanover County currently has approximately \$37.5M in room occupancy tax reserve funding for future the local match or local participation in beach projects. Annual collections total an estimated \$3.4M in 2017 for CSDR projects and, historically, the fund has grown by approximately 3% per year since 1984. The Town of Carolina Beach has placed an additional \$350,000 in the General Fund for Beach Maintenance and Storm Damage Prevention (Line Item 10-630-018) to augment Room Occupancy Tax funds and is committed to setting aside additional funds in future budgets.

15A NCAC 07J .1204 REVIEW OF THE LARGE-SCALE BEACH-FILL PROJECT AND APPROVED STATIC LINE EXCEPTIONS - 2014

(b) The Coastal Resources Commission shall review a static line exception authorized under 15A NCAC 07J .1203 at intervals no greater than every five years from the initial authorization in order to renew its findings for the conditions defined in 15A NCAC 07 1201 (d)(2) through (d)(4). The Coastal Resources Commission shall also consider the following conditions:

- (1) Design changes to the initial large-scale beach fill project defined in 15A NCAC 07J .1201 (d)(2) provided that the changes are designed and prepared by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements for the work;

There have been no design changes following the reauthorization of the static line exception in 2014 by the Coastal Resource Commission. New Hanover County, on behalf of Carolina Beach, have received a local permit for the project using the same design as the US Army Corps of Engineers Project. The purpose of a locally held authorization would be if Federal funding is not available.

(2) Design changes to the location and volume of compatible sediment, as defined by 15A NCAC 07 H .0312, necessary to construct and maintain the large-scale beach fill project defined in 15A NCAC 07J .1201 (d)(2), including design changes defined in this Rule provided that the changes have been designed and prepared by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements for the work; and

There have been no design changes to the location and volume of compatible sediment following the granting of the static line exception in 2014. New Hanover County received a local permit for the project using the same design as the US Army Corps of Engineers Project.

(3) Changes in the financial resources or funding sources necessary to fund the largescale beach fill project(s) defined in 15A NCAC 07J .1201 If the project has been amended to include design changes defined in this Rule, then the Coastal Resources Commission shall consider the financial resources or funding sources necessary to fund the changes.

The primary funding mechanism (Federal Project Cooperation Agreement) remains current for the Carolina Beach Coastal Storm Damage Reduction Project. A second federal funding mechanism is now in place in the form of contributing authority approved by Congress in 2012. The contributing authority option allows the nonfederal sponsor the option of augmenting federal funding shortfalls.

As a local funding strategy, an Inter-local agreement has been approved between New Hanover County and each beach community. The agreement sets percentages of financial participation (attached) in the event shortfalls occur within federal and state budgets. Considering only funding at current intervals and historical placement volumes, ample funding should be available for the Wrightsville Beach Coastal Storm Damage Reduction Project for the foreseeable future (greater than 25 years).

New Hanover County currently has approximately \$37.5M in room occupancy tax reserve funding for future the local match or local participation in beach projects. Annual collections total an estimated \$3.4M in 2017 for CSDR projects and, historically, the fund has grown by approximately 3% per year since 1984. The Town of Carolina Beach has placed an additional \$350,000 in the General Fund for Beach Maintenance and Storm Damage Prevention (Line Item 10-630-018) to augment Room Occupancy Tax funds and is committed to setting aside additional funds in future budgets.

Summary

The Carolina Beach project satisfies all of the requirements for the static line exception as stipulated in 15A NCAC 07J .1201. By virtue of this updated report, the Town of Carolina Beach has demonstrated the project has been maintained for well over the 5-year minimum, it has an identified source of beach compatible borrow material that will sustain the project for more than the minimum 25 years, and funding strategies are in place continuing to support the project beyond 25 years.

Attachment 1: Interlocal agreement for Contingency plan beach nourishment



**STATE OF NORTH CAROLINA
NEW HANOVER COUNTY**

INTERLOCAL AGREEMENT FOR CONTINGENCY PLAN BEACH NOURISHMENT

This Interlocal Agreement ("Agreement") is made Dec 8, 2011 by and between the County of New Hanover, North Carolina, a body corporate and politic (hereinafter referred to as the "County") and the Municipalities of Wrightsville Beach, Carolina Beach, and Kure Beach, bodies politic and corporate (hereinafter referred to as the "Towns").

PURPOSE

WHEREAS, the ocean beaches located within the corporate boundaries of Wrightsville Beach, Carolina Beach and Kure Beach (herein collectively the "Town Beaches") are a valuable resource bringing economic, environmental, cultural and recreational benefits to people of the United States, including those in the State of North Carolina; and

WHEREAS, the financing and maintenance of the Town Beaches has been and remains an appropriate function of the Federal and State governments; and

WHEREAS, maintenance of the Town Beaches through United States Army Corps of Engineers nourishment projects funded primarily by the Federal and State governments has accordingly been successfully performed for many decades; and

WHEREAS, the maintenance of Town Beaches is vital to continued economic, environmental and cultural well-being of the County and Town; and

WHEREAS, critical to the Municipalities of Wrightsville Beach, Carolina Beach, and Kure Beach is demonstrating the long-term feasibility of financing plans for the maintenance of their ocean beaches, in order to preserve their status as or to establish eligibility for designation as a Static Vegetation Line Exception community under regulations promulgated by the State's Coastal Area Management Act; and

WHEREAS, the ongoing availability of Federal and State funding for Corps of Engineers managed beach nourishment projects remains uncertain; and

WHEREAS, County and Towns accordingly seek to establish contingency plans to address various scenarios wherein Federal or State monies may not be available for beach nourishment; and

WHEREAS, County and Towns also seek to provide for the potential use of sixty percent (60%) of the first three percent (3%) of the Room Occupancy Tax available for beach nourishment (subsequent references to the "use of Room Occupancy Tax" shall mean use of the portion of the Room Occupancy Tax available for beach nourishment as defined hereinabove) and local general revenues, as necessary, for funding of either a portion of Corps managed beach nourishment or County managed beach nourishment projects if Federal or State funds are unavailable or insufficient for such purposes; and

WHEREAS, County and Towns are jointly seeking approval by State and Federal Agencies of a contingent Nourishment Plan for the Town Beaches, and the State, in anticipation of such a plan, is prepared to complete/review any necessary environmental studies, and State and Federal Agencies involved in the funding have indicated that they strongly prefer and require that units of local government work on and submit one mutual plan for beach nourishment without individual towns seeking separate funding or individual beach nourishment projects except in emergencies. Provided that nothing contained in this Agreement shall be construed to limit or restrict the authority of Wrightsville Beach, Carolina Beach, and Kure Beach to continue to participate in and seek funding for their existing Corps managed beach nourishment programs; and

WHEREAS, it is within the contemplation of the Parties hereto and State agencies involved in the approval process that the U.S. Army Corps of Engineers and other Federal approval agencies will issue one permit for the Town Beaches. Use of said permit is contingent upon Federal and/or State funding being unavailable or insufficient for Corps managed projects; and

WHEREAS, County and Towns now desire to enter into an agreement that provides a planning mechanism, plan, and compact among the parties for a contingent beach nourishment program for the Town Beaches (hereinafter referred to as the "Master Nourishment Plan", "Master Plan" or "Plan"), which utilizes available funds from the County's Room Occupancy Tax together with the general revenue of the respective locality and any State and Federal funding secured for the Master Nourishment Plan; and

WHEREAS, County and Towns now desire to enter into an agreement addressing local funding sources should Federal and State monies be unavailable or insufficient to finance nourishment projects for the Town Beaches; and

WHEREAS, under this Agreement it is contemplated that the County as the lead sponsor, with the assistance of its Wilmington/New Hanover County Port, Waterway and Beach Commission, and consultants hired by the County, in consultation with the Towns, will prepare the Master Nourishment Plan for approval by the Towns. Upon written approval by all of the Towns of such Plan, the Plan will then be implemented under this Agreement with the County being the designated permittee for beach nourishment; and

WHEREAS, notwithstanding this Agreement or any provisions therein, the Parties agree to support and continue efforts to procure Federal and State funding for beach nourishment projects.

NOW THEREFORE, County and Towns pursuant to NCGS 160A-17 and Part 1 of Article 20 of Chapter 160A of the North Carolina General Statutes, hereby contract and agree as follows:

1. **Purpose.** This agreement seeks to address the following different potential scenarios:
 - a. Those situations in which Federal or State funding for beach nourishment for Corps managed projects for Town Beaches is reduced.
 - b. Those situations in which no Federal or State funding for beach nourishment for Town Beaches is available. In such event the County and Towns would proceed under the contingent plan and permit process set-forth herein.

County and Towns enter into this Agreement in order to prepare, approve and carry out the Master Nourishment Plan providing for acquisition of one permit for

nourishment of the Town Beaches and identification of the source of tax funds and other revenues to be used to implement such plan. The Master Nourishment Plan shall not include navigational or harbor dredging where the dredged materials is not used for beach nourishment.

2. Development of Master Nourishment Plan. The County, using available Room Occupancy Tax revenues, will over the next 18 to 36 months develop the Master Plan in consultation with State and Federal Agencies, the Towns, consulting engineers, and the Wilmington/New Hanover County Port, Waterway and Beach Commission, and submit the same to the Towns for consideration and approval by all of the Towns. Concurrently the County will submit for a State and Federal permit to carry out and complete the Plan. The Master Plan shall not be effective until approved by all of the Towns in writing. The final approved plan will contain the following principles and encompass and cover the following subjects, goals and objectives:

- a. Easements and Rights-of-Way. Each Town shall be responsible for providing the staging areas, sites or necessary lands, easements, and rights-of-way required for the development, construction, and maintenance of those elements of the Master Nourishment Plan to be implemented within the Town. No Town will be obligated to provide sites, staging areas or facilities for nourishment that will take place in another party's jurisdiction. However, the plan will provide that Towns may cooperate in providing staging areas and access to the beach for beach construction equipment regardless of where the beach construction activity is taking place when joint nourishment projects are undertaken.
- b. Public Beach Access and Parking. The Towns shall be responsible for securing, constructing, and maintaining any and all access/parking facilities stipulated as a condition of receiving State or Federal funding. All public beach accesses and parking facilities must be secured prior to issuing a notice to proceed for each construction event.
- c. Funding Contingency. Each party's participation in a nourishment project associated with the Master Nourishment Plan will be contingent on such party, in its sole discretion, being able to fund its portion of the project. Each

Town is required to anticipate the need for the local funding share and to either budget for the same over a period of years, provide for and conduct elections to approve of bonds or borrowing pursuant to State law , or put in place tax districts or similar means of funding the local share. Failure to meet local funding needs by one or more Towns could result in the County passing over a project of the Town due to lack of funding.

- d. Construction Administration. The County may serve in the role as lead administrator for any nourishment event associated with the Master Nourishment Plan.
3. Cost-sharing for Corps-Managed Projects or Projects Implemented Under the Master Nourishment Plan. In the event Federal and State funding is insufficient to pay the costs of any beach nourishment project, the Room Occupancy Tax will pay any shortfall in funding for such project up to a maximum of 82.5% of the total project costs. If after payment of Room Occupancy Tax funds in an amount equal to 82.5% of the total project costs a shortfall remains, such shortfall shall be paid by the Town in which such project is located up to a maximum of 17.5% of the total project costs.
 4. Ownership and Use of Nourished Beaches. The ownership and use of beaches nourished under this Agreement are subject to the State Lands Act.
 5. Withdrawal, Termination, Modifications, Amendments, and Binding Effects. The commitment of each Town to provide public beach access, parking or any other lands or rights-of way, or any rules or regulations with respect to use of the same, as a party to this agreement, is expressly conditioned on Federal and State laws, regulations, or interpretations thereof, as of the date of approval of this agreement by signatories herewith. If there are amendments, changes or interpretations to Federal or State law or regulations, which are adopted after this Agreement is approved which affect a party's rights and obligations in this Agreement, any party that chooses not to meet the requirements shall have a right to withdraw from this Agreement at any time.

Once approved by the County and all of the Towns, this Agreement shall remain in effect until June 30, 2015 and be binding on the Parties regardless of changes in the composition of boards of the respective units of local government that are parties hereto. This Agreement shall automatically renew for subsequent periods of four years unless any party gives notice in writing to all other parties at least 180 days before the expiration of the then current term of its desire that the Agreement not renew at its termination. In such event, the Agreement shall terminate at the end of its then current term.

Once approved, no party may withdraw except that a Town upon twelve (12) months written notice to the County and other Towns may withdraw. Withdrawal of a party as provided in this paragraph shall not cause the Agreement to terminate. The Agreement shall only be terminated as provided in the preceding paragraph.

- 6. Any amendment or modification to this Agreement shall require the written consent of all Parties.

IN WITNESS WHEREOF, the parties have executed this Agreement.



COUNTY OF NEW HANOVER

ATTEST:

Shirley L. Sabert
Clerk to the Board

By: *Ted Davis*
Chairman of the Board



TOWN OF WRIGHTSVILLE BEACH

ATTEST:

Sylvia J. Holliman
Town Clerk

R. J. Givette
Mayor

Approved as to form/County Attorney

Kenj Meyer

ORIGINAL



TOWN OF CAROLINA BEACH

ATTEST:

Melinda
Town Clerk

[Signature]
Mayor



TOWN OF KURE BEACH

ATTEST:

[Signature]
Town Clerk

[Signature]
Mayor

NORTH CAROLINA

NEW HANOVER COUNTY

I, **Teresa P. Elmore**, a Notary Public of the State and County aforesaid certify that Sheila L. Schult acknowledged that she is Clerk to the Board of Commissioners of New Hanover County and that by authority duly given and as the act of the Board the foregoing instrument was signed in its name by its Chairman, sealed with its corporate seal and attested by herself as its Clerk.

WITNESS my hand and official seal this 8 day of Dec, 2011.

Teresa P Elmore
Notary Public

My commission expires:



NORTH CAROLINA

NEW HANOVER COUNTY

I, Virginia A. Houser, a Notary Public of the State and County aforesaid certify that Sylvia J. Holleman acknowledged that she is Clerk to the Board of Alderman of Wrightsville Beach and that by authority duly given and as the act of the Board the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal and attested by herself as its Clerk.

WITNESS my hand and official seal this 17th day of November, 2011.

Virginia A. Houser
Notary Public



My commission expires: 5/3/12

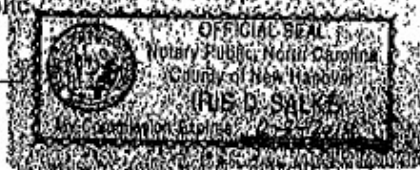
NORTH CAROLINA

NEW HANOVER COUNTY

I, Iris D. Salko, a Notary Public of the State and County aforesaid certify that Melinda A. Prusa acknowledged that she is Clerk to the Town Council of Carolina Beach and that by authority duly given and as the act of the Council the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal and attested by herself as its Clerk.

WITNESS my hand and official seal this 15 day of November, 2011.

Iris D. Salko
Notary Public



My commission expires: 2-3-2014

NORTH CAROLINA

NEW HANOVER COUNTY

I, Sheila L. Schult, a Notary Public of the State and County aforesaid certify that Nancy Avery acknowledged that she is Clerk to the Town Council of Kure Beach and that by authority duly given and as the act of the Council the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal and attested by herself as its Clerk.

WITNESS my hand and official seal this 18th day of November, 2011.

Sheila L. Schult
Notary Public



My commission expires: 3/17/2013

Attachment 2: Results of 2019 Periodic Nourishment Event – Before and After Nourishment

