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DEPARTMENT OF JUSTICE

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TO: The Coastal Resources Commission

FROM: Christine A. Goebel, Assistant Attorney General

Handwritten signature of Christine A. Goebel in black ink.

DATE: November 12, 2014 (for the Special November 19, 2014 CRC Meeting)

RE: **Variance Request by Golob, Davenport, Litz & Atkinson (14-15)**

Petitioners own four adjacent oceanfront homes in Oak Island, Brunswick County, North Carolina. On May 21, 2014, Petitioners were each issued CAMA General Permits for the installation of sandbags in front of their homes, and each installed their sandbags by the end of May.

On September 24, 2014, Petitioners jointly submitted an application for a CAMA Major Permit seeking to install additional sandbags in excess of the size limits for sandbags in order to create a sandbag structure with a maximum base width of 30' and an elevation of 15.7' NAVD 88. On October 24, 2014, DCM denied Petitioners' permit application due to its inconsistency with the Commission's size limit rules for sandbags. On October 31, 2014, Petitioners submitted this Variance Petition seeking the larger sandbags as proposed, and the Petition was deemed complete on November 6, 2014. Petitioners seek a variance to allow the placement of sandbags in the configuration proposed in their permit application in an expedited timeframe.

The following additional information is attached to this memorandum:

Attachment A: Relevant Rules
Attachment B: Stipulated Facts
Attachment C: Petitioner's Position and Staff's Responses to Criteria
Attachment D: Petitioner's Variance Request Materials
Attachment E: Stipulated Exhibits including powerpoint

cc: Barry Golob, Petitioner and Counsel for Petitioners, electronically
Mary Lucasse, CRC Counsel, electronically
Donna Coleman, Town of Oak Island CAMA LPO, electronically

RELEVANT STATUTES OR RULES

ATTACHMENT A

15A NCAC 07H .0301 OCEAN HAZARD CATEGORIES

The next broad grouping is composed of those AECs that are considered natural hazard areas along the Atlantic Ocean shoreline where, because of their special vulnerability to erosion or other adverse effects of sand, wind, and water, uncontrolled or incompatible development could unreasonably endanger life or property. Ocean hazard areas include beaches, frontal dunes, inlet lands, and other areas in which geologic, vegetative and soil conditions indicate a substantial possibility of excessive erosion or flood damage.

15A NCAC 07H .0302 SIGNIFICANCE OF THE OCEAN HAZARD CATEGORY

(a) The primary causes of the hazards peculiar to the Atlantic shoreline are the constant forces exerted by waves, winds, and currents upon the unstable sands that form the shore. During storms, these forces are intensified and can cause significant changes in the bordering landforms and to structures located on them. Ocean hazard area property is in the ownership of a large number of private individuals as well as several public agencies and is used by a vast number of visitors to the coast. Ocean hazard areas are critical, therefore, because of both the severity of the hazards and the intensity of interest in the areas.

(b) The location and form of the various hazard area landforms, in particular the beaches, dunes, and inlets, are in a permanent state of flux, responding to meteorologically induced changes in the wave climate. For this reason, the appropriate location of structures on and near these landforms must be reviewed carefully in order to avoid their loss or damage. As a whole, the same flexible nature of these landforms which presents hazards to development situated immediately on them offers protection to the land, water, and structures located landward of them. The value of each landform lies in the particular role it plays in affording protection to life and property. (The role of each landform is described in detail in Technical Appendix 2 in terms of the physical processes most important to each.) Overall, however, the energy dissipation and sand storage capacities of the landforms are most essential for the maintenance of the landforms' protective function.

15A NCAC 07H .0303 MANAGEMENT OBJECTIVE OF OCEAN HAZARD AREAS

(a) The CRC recognizes that absolute safety from the destructive forces indigenous to the Atlantic shoreline is an impossibility for development located adjacent to the coast. The loss of life and property to these forces, however, can be greatly reduced by the proper location and design of structures and by care taken in prevention of damage to natural protective features particularly primary and frontal dunes. Therefore, it is the CRC's objective to provide management policies and standards for ocean hazard areas that serve to eliminate unreasonable danger to life and property and achieve a balance between the financial, safety, and social factors that are involved in hazard area development.

(b) The purpose of these Rules shall be to further the goals set out in G.S. 113A-102(b), with particular attention to minimizing losses to life and property resulting from storms and long-term erosion, preventing encroachment of permanent structures on public beach areas, preserving the natural ecological conditions of the barrier dune and beach systems, and reducing the public costs of inappropriately sited development. Furthermore, it is the objective of the Coastal Resources Commission to protect present common-law and statutory public rights of access to and use of the lands and waters of the coastal area.

15A NCAC 7H .0305 GENERAL IDENTIFICATION AND DESCRIPTION OF LANDFORMS

(a) This section describes natural and man-made features that are found within the ocean hazard area of environmental concern.

(8) Erosion Escarpment. The normal vertical drop in the beach profile caused from high tide or storm tide erosion.

15A NCAC 07H .0308 SPECIFIC USE STANDARDS FOR OCEAN HAZARD AREAS

(a) Ocean Shoreline Erosion Control Activities:

(1) Use Standards Applicable to all Erosion Control Activities:

(A) All oceanfront erosion response activities shall be consistent with the general policy statements in 15A NCAC 07M .0200.

(B) Permanent erosion control structures may cause significant adverse impacts on the value and enjoyment of adjacent properties or public access to and use of the ocean beach, and, therefore, are prohibited. Such structures include bulkheads, seawalls, revetments, jetties, groins and breakwaters.

(C) Rules concerning the use of oceanfront erosion response measures apply to all oceanfront properties without regard to the size of the structure on the property or the date of its construction.

(D) All permitted oceanfront erosion response projects, other than beach bulldozing and temporary placement of sandbag structures, shall demonstrate sound engineering for their planned purpose.

(E) Shoreline erosion response projects shall not be constructed in beach or estuarine areas that sustain substantial habitat for fish and wildlife species, as identified by natural resource agencies during project review, unless mitigation measures are incorporated into project design, as set forth in Rule .0306(i) of this Section.

(F) Project construction shall be timed to minimize adverse effects on biological activity.

(G) Prior to completing any erosion response project, all exposed remnants of or debris from failed erosion control structures must be removed by the permittee.

(the remainder of (a)(1) is omitted in this staff recommendation)

(2) Temporary Erosion Control Structures:

(A) Permittable temporary erosion control structures shall be limited to sandbags placed landward of mean high water and parallel to the shore.

(B) Temporary erosion control structures as defined in Part (2)(A) of this Subparagraph shall be used to protect only imminently threatened roads and associated right of ways, and buildings and their associated septic systems. A structure shall be considered imminently threatened if its foundation, septic system, or right-of-way in the case of roads, is less than 20 feet away from the erosion scarp. Buildings and roads located more than 20 feet from the erosion scarp or in areas where there is no obvious erosion scarp may also be found to be imminently threatened when site conditions, such as a flat beach profile or accelerated erosion, increase the risk of imminent damage to the structure.

(C) Temporary erosion control structures shall be used to protect only the principal structure and its associated septic system, but not appurtenances such as pools, gazebos, decks or any amenity that is allowed as an exception to the erosion setback requirement.

(D) Temporary erosion control structures may be placed seaward of a septic system when there is no alternative to relocate it on the same or adjoining lot so that it is landward of or in line with

the structure being protected.

(E) Temporary erosion control structures shall not extend more than 20 feet past the sides of the structure to be protected. The landward side of such temporary erosion control structures shall not be located more than 20 feet seaward of the structure to be protected or the right-of-way in the case of roads. If a building or road is found to be imminently threatened and at an increased risk of imminent damage due to site conditions such as a flat beach profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet seaward of the structure being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or their designee.

(F) Temporary erosion control structures may remain in place for up to two years after the date of approval if they are protecting a building with a total floor area of 5000 sq. ft. or less and its associated septic system, or, for up to five years for a building with a total floor area of more than 5000 sq. ft. and its associated septic system. Temporary erosion control structures may remain in place for up to five years if they are protecting a bridge or a road. The property owner shall be responsible for removal of the temporary structure within 30 days of the end of the allowable time period.

(G) Temporary sandbag erosion control structures may remain in place for up to five years from the date of approval if they are located in a community that is actively pursuing a beach nourishment project, and for up to eight years from the date of approval if they are located in an Inlet Hazard Area adjacent to an inlet for which a community is actively pursuing an inlet relocation project. For purposes of this Rule, a community is considered to be actively pursuing a beach nourishment or inlet relocation project if it has:

- (i) an active CAMA permit, where necessary, approving such project; or
- (ii) been identified by a U.S. Army Corps of Engineers' Beach Nourishment Reconnaissance Study, General Reevaluation Report, Coastal Storm Damage Reduction Study or an ongoing feasibility study by the U.S. Army Corps of Engineers and a commitment of local or federal money, when necessary; or
- (iii) received a favorable economic evaluation report on a federal project or,
- (iv) is in the planning stages of a project that has been designed by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements and has been initiated by a local government or community with a commitment of local or state funds to construct the project and the identification of the financial resources or funding bases necessary to fund the beach nourishment or inlet relocation project.

If beach nourishment or inlet relocation is rejected by the sponsoring agency or community, or ceases to be actively planned for a section of shoreline, the time extension is void for that section of beach or community and existing sandbags are subject to all applicable time limits set forth in Part (F) of this Subparagraph.

(H) Once the temporary erosion control structure is determined to be unnecessary due to relocation or removal of the threatened structure, a storm protection project constructed by the U.S. Army Corps of Engineers, a large-scale beach nourishment project or an inlet relocation project, it shall be removed by the property owner within 30 days of official notification from the Division of Coastal Management regardless of the time limit placed on the temporary erosion control structure.

(I) Removal of temporary erosion control structures shall not be required if they are covered by dunes with stable and natural vegetation.

(J) The property owner shall be responsible for the removal of remnants of all portions of any damaged temporary erosion control structure.

(K) Sandbags used to construct temporary erosion control structures shall be tan in color and three to five feet wide and seven to 15 feet long when measured flat. Base width of the structure shall not exceed 20 feet, and the height shall not exceed six feet.

(L) Soldier pilings and other types of devices to anchor sandbags shall not be allowed.

(M) An imminently threatened structure may be protected only once, regardless of ownership unless the threatened structure is located in an Inlet Hazard Area and in a community that is actively pursuing an inlet relocation project in accordance with (G) of this Subparagraph. Existing temporary erosion control structures located in Inlet Hazard Areas may be eligible for an additional eight year permit extension provided that the structure being protected is still imminently threatened, the temporary erosion control structure is in compliance with requirements of this Subchapter and the community in which it is located is actively pursuing an inlet relocation project in accordance with Part (G) of this Subparagraph. In the case of a building, a temporary erosion control structure may be extended, or new segments constructed, if additional areas of the building become imminently threatened. Where temporary structures are installed or extended incrementally, the time period for removal under Part (F) or (G) of this Subparagraph shall begin at the time the initial erosion control structure is installed. For the purpose of this Rule:

(i) a building and septic system shall be considered as separate structures.

(ii) a road or highway shall be allowed to be incrementally protected as sections become imminently threatened. The time period for removal of each section of sandbags shall begin at the time that section is installed in accordance with Part (F) or (G) of this Subparagraph.

(N) Existing sandbag structures may be repaired or replaced within their originally permitted dimensions during the time period allowed under Part (F) or (G) of this Subparagraph.

15A NCAC 07M .0201 DECLARATION OF GENERAL POLICY

It is hereby declared that the general welfare and public interest require that development along the ocean and estuarine shorelines be conducted in a manner that avoids loss of life, property and amenities. It is also declared that protection of the recreational use of the shorelines of the state is in the public interest. In order to accomplish these public purposes, the planning of future land uses, reasonable rules and public expenditures should be created or accomplished in a coordinated manner so as to minimize the likelihood of damage to private and public resources resulting from recognized coastal hazards.

15A NCAC 07M .0202 POLICY STATEMENTS

(a) Pursuant to Section 5, Article 14 of the North Carolina Constitution, proposals for shoreline erosion response projects shall avoid losses to North Carolina's natural heritage. All means should be taken to identify and develop response measures that will not adversely affect estuarine and marine productivity. The public right to use and enjoy the ocean beaches must be protected. The protected uses include traditional recreational uses (such as walking, swimming, surf-fishing, and sunbathing) as well as commercial fishing and emergency access for beach rescue services. Private property rights to oceanfront properties including the right to protect that property in ways that are consistent with public rights should be protected.

(b) Erosion response measures designed to minimize the loss of private and public resources to erosion should be economically, socially, and environmentally justified. Preferred response measures for shoreline erosion shall include but not be limited to AEC rules, land use planning and land classification, establishment of building setback lines, building relocation, subdivision regulations and management of vegetation.

(c) The replenishment of sand on ocean beaches can provide storm protection and a viable alternative to allowing the ocean shoreline to migrate landward threatening to degrade public beaches and cause the loss of public facilities and private property. Experience in North Carolina and other states has shown that beach restoration projects can present a feasible alternative to the loss or massive relocation of oceanfront development. In light of this experience, beach restoration and sand renourishment and disposal projects may be allowed when:

- (1) Erosion threatens to degrade public beaches and to damage public and private properties;
- (2) Beach restoration, renourishment or sand disposal projects are determined to be socially and economically feasible and cause no significant adverse environmental impacts;
- (3) The project is determined to be consistent with state policies for shoreline erosion response and state use standards for Ocean hazard and Public Trust Waters Areas of Environmental Concern and the relevant rules and guidelines of state and federal review agencies.

When the conditions set forth in this Paragraph can be met, the Coastal Resources Commission

supports, within overall budgetary constraints, state financial participation in Beach Erosion Control and Hurricane Wave Protection projects that are cost-shared with the federal government and affected local governments pursuant to the federal Water Resources Development Act of 1986 and the North Carolina Water Resources Development Program (G.S. 143-215.70-73).

(d) The following are required with state involvement (funding or sponsorship) in beach restoration and sand renourishment projects:

(1) The entire restored portion of the beach shall be in permanent public ownership;

(2) It shall be a local government responsibility to provide adequate parking, public access, and services for public recreational use of the restored beach.

(e) Temporary measures to counteract erosion, such as the use of sandbags and beach pushing, should be allowed, but only to the extent necessary to protect property for a short period of time until threatened structures may be relocated or until the effects of a short-term erosion event are reversed. In all cases, temporary stabilization measures must be compatible with public use and enjoyment of the beach.

(f) Efforts to permanently stabilize the location of the ocean shoreline with seawalls, groins, shoreline hardening, sand trapping or similar protection devices shall not be allowed except when the project meets one of the specific exceptions set out in 15A NCAC 7H .0308.

(g) The State of North Carolina will consider innovative institutional programs and scientific research that will provide for effective management of coastal shorelines. The development of innovative measures that will lessen or slow the effects of erosion while minimizing the adverse impacts on the public beach and on nearby properties is encouraged.

(h) The planning, development, and implementation of erosion control projects will be coordinated with appropriate planning agencies, affected governments and the interested public. Maximum efforts will be made by the state to accommodate the interest of each interested party consistent with the project's objectives. Local, state, and federal government activity in the coastal area should reflect an awareness of the natural dynamics of the ocean front. Government policies should not only address existing erosion problems but should aim toward minimizing future erosion problems. Actions required to deal with erosion problems are very expensive. In addition to the direct costs of erosion abatement measures, many other costs, such as maintenance of projects, disaster relief, and infrastructure repair will be borne by the public sector. Responses to the erosion should be designed to limit these public costs.

(i) The state will promote education of the public on the dynamic nature of the coastal zone and on effective measure to cope with our ever changing shorelines.

STIPULATED FACTS

ATTACHMENT B

1. The Petitioners are Barry Golob, Mark Davenport, David & Voncille Litz and Christopher Atkinson (“Golob”, “Davenport”, “Litz”, and “Atkinson” individually or “Petitioners” collectively).
2. Petitioners are represented by attorney Barry Golob. Mr. Golob is a licensed attorney in Washington D.C. but is not licensed to practice in North Carolina. Mr. Golob filed the necessary papers to comply with the requirements of N.C.G.S. 84-4.1 and his request to represent Petitioners before the Commission in this case was granted by Chairman Gorham. Statements from the other Petitioners authorizing Mr. Golob to represent them, and the motion and supporting documents are attached in the stipulated exhibits
3. Petitioners each own one of four adjacent oceanfront properties located at 6615, 6617, 6621 and 6623 West Beach Drive, on the western end of Oak Island. Golob purchased his lot in October of 2013, Davenport purchased his lot in May of 2013, Litz purchased their lot in 1991, and Atkinson purchased his lot in February of 2014. Copies of each deed are attached as stipulated exhibits.
4. The Petitioners’ lots (“Site”) are within the Ocean Erodible and High-Hazard Flood sub-categories of the Ocean Hazard Area of Environmental Concern. The Site is just east of the existing Inlet Hazard AEC for Lockwood Folly Inlet. The Site is within the proposed updated Inlet Hazard AEC, which the Coastal Resources Commission (“CRC”) reviewed, but then suspended consideration of at its November 2010 meeting, pending completion of all of the ocean shoreline erosion rate updates. An exhibit showing these areas and lines is attached as a stipulated exhibit.
5. The Site is not subject to a static vegetation line as it was not part of the 2001 large-scale nourishment project which took place on portions of Oak Island to the east of the Site.
6. The long-term average annual erosion rate at the Site is 2-feet per year.
7. Since the beginning of 2014, the Site has been affected by accelerated erosion, which can be seen in attached Site photographs.
8. Evidence of the erosion at this Site can be seen in the field notes of Heather Coats, DCM Field Representative, a copy of which is attached. Those notes indicate that initially on April 17, 2014, the distance between the two waterward pilings and the erosion escarpment were 47’ and 42’. By May 16, 2014, these distances were down to 30’ and 25’. Similar measurements were taken at the Litz property.

9. Further evidence of the erosion at this site is provided in an email from Donna Coleman, Town of Oak Island CAMA LPO to Golob, dated August 19, 2013. In this correspondence, Ms. Coleman indicates that she measured the distance from the First Line of Stable Natural Vegetation to “the house pile” was 68 feet. A copy of this email is attached as a stipulated exhibit.
10. On May 21, 2014, all four Petitioners were each issued a CAMA General Permit for the installation of sandbag structures between their homes and the ocean, at the 6’ high by 20’ wide dimensions authorized by the Commission’s rules at 15A NCAC 7H .1700. Installation of these structures was completed by May 31, 2014. Copies of these General Permits are attached as stipulated exhibits.
11. After receipt of the CAMA General Permits, Petitioners’ sandbag contractor would have needed to coordinate with the Corps, but if work (including installation and dredge site) was above MHW, no Corps written concurrence is typically required.
12. Between the May 31, 2014 completion of the sandbag installation and the present, at some points in time, the sandbag structure has been overtopped by the ocean waves and some scouring behind the sandbag structure has occurred, including scouring around the house foundation piles. Evidence of this can be seen in photographs attached as stipulated exhibits.
13. On or about September 18, 2014, Petitioners jointly applied for a CAMA Major Permit seeking to install additional sandbags in order to create a sandbag structure with a maximum width of 30’ and a maximum elevation of 15.7’ NAVD 88, which is intended to be the same elevation as the current height of the escarpment. This application was deemed complete on September 24, 2014 by DCM Staff. Mr. Golob acted as agent for the other three lot owners. Petitioners’ CAMA permit application and its attachments are attached as stipulated exhibits, and includes an elevation survey taken on September 19, 2014.
14. As part of the CAMA Major Permit process, adjacent neighbors and the public were given notice of Petitioners’ CAMA permit application. DCM Staff received no objections to Petitioners’ application. Copies of the notice to the adjacent riparian owners (Lovejoy and Powell) are attached.

15. Also as part of the CAMA Major Permit process, Petitioners' application, Staff's Field Report, and other materials were sent to resource agencies for comment. Comments were received from the Wildlife Resources Commission, the DCM Fishery Resource Specialist and the US Fish and Wildlife Service. The Wildlife Resources Commission and DCM's Fishery Resource Specialist raised concerns and proposed conditions about timing and working outside the moratorium. The Fish and Wildlife Service proposed conditions recommended for any CAMA permit authorized to install larger sandbags, which included sand compatibility and timing issues. Copies of the Field Report and the noted comments received by DCM are attached as stipulated exhibits.
16. On October 24, 2014, DCM denied Petitioners' permit application due to its inconsistency with the Commission's rules limiting sandbag structure sizes in 15A NCAC 7H .0308 (cite). A copy of the denial letter is attached as a stipulated exhibit.
17. On October 29, 2014, Staff received Petitioners' variance petition. At that time, the petition was incomplete as it lacked proof of notice of the variance sent to the adjacent riparian property owners required by 15A NCAC 7J .0701(a). This notice, copies of which are attached, was provided to Staff on November 6, 2014 which completed the Petition.
18. As part of the variance petition Petitioners stipulate that the proposed development is inconsistent with 15A NCAC 07H .0308.
19. This Variance Petition seeks to install additional sandbags in order to construct a larger sandbag revetment with a base width no wider than 30' and a maximum elevation of 15.7' NAVD 88, as proposed in their CAMA permit application.
20. Petitioners also sought to have the hearing in this matter be heard in an expedited fashion, sooner than at the Commission's scheduled December meeting. A copy of the documents making up this request, staff's response and the Chairman's decision are attached as part of the stipulated exhibits.
21. DCM staff are aware that the Town of Oak Island ("Town") intends to submit a CAMA Major Permit Application for a town-funded beach nourishment project, but has not done so as of November 12, 2014. It is Staffs' understanding that the Town hopes to implement this nourishment project, designed by Moffatt Nichol, in the winter and spring of 2015. A copy of the powerpoint presentation shown by Moffatt Nichol to various resource agencies at a pre-application meeting on August 27, 2014 is attached. It proposes dredging the Eastern Channel located on the back-side of the west end of Oak Island and

depositing approximately 202,000 cy of sand on Oak Island oceanfront. According to the contractor's report, half of the estimated \$3.5 million project is anticipated to be funded by Division of Water Resources (who has funded \$1.1 million already) with the remaining funding anticipated to come from Brunswick County and the Town of Oak Island.

22. Town of Oak Island Town Council meeting minutes, attached as stipulated exhibits, reflect the Town's approval on July 8, 2014 of the initial \$274,925, matched by the Division of Water Resources, to Moffatt Nichol to fund the Eastern Channel project, following a June 2014 vote of the Council to approve pursuing this project. On the draft minutes of the Town Council's September 9, 2014 meeting, the Council voted to approve the grant contract with NCDENR-DWR for \$1.2 million grant for the Lockwood Folly Navigational and Habitat Restoration Project Phase I (Eastern Chanel).
23. All oceanfront property owners on the west beach area from 51st Place to 69th Place were requested to sign an easement for the beach nourishment project. On October 18, 2014, Golob signed an easement to the Town of Oak Island allowing entry and development of the Eastern Channel beach nourishment project on their oceanfront lot, a copy of which is attached. Also attached is a letter from Steve Foster, Oak Island Town Manager, to Golob explaining the nourishment project.

ATTACHED STIPULATED EXHIBITS

1. Golob's Pro Hac Vice paperwork along with agent statements from other Petitioners
2. Petitioners' deeds
3. DCM field notes
4. August 19, 2013 email to Golob from Town of Oak Is CAMA LPO
5. Petitioners' CAMA General Permits
6. Petitioners' CAMA Major Permit application with attachments including site plans
7. Notice to Riparian Owners of CAMA application
8. DCM Field Report
9. WRC Comments
10. F&W Comments email
11. DCM Fisheries Resource comments
12. CAMA Permit Denial, October 24, 2104
13. Expedited request information
14. Powerpoint from Moffat Nichol used at pre-app meeting for Eastern Channel project
15. Town meeting minutes
16. Golob easement to Town of Oak Is for nourishment
17. Town letter requesting easements

18. Various Site Photographs in Powerpoint format and DCM GIS photograph showing Site, with static line and Inlet AEC boundaries

Petitioners' and Staff's Positions

ATTACHMENT C

- I. Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? If so, the petitioner must identify the hardships.**

Petitioners' Position: Yes.

Yes. CAMA rules, including 15A NCAC 07H .0308, were written for the "normal" cases of threatened structures where typical sandbag protection can be effective in securing the temporary protection of structures. Due to the particular physical conditions present in this case, including strong winds, swells and surges of extremely high lunar tides that produce severe wave action, however, strict application of these rules will not provide the protection needed to allow the Properties and their improvements to survive without significant damage or total collapse. The ordinary six-foot limit on revetment height and twenty-foot water ward limit on revetment location have resulted in a completely ineffective protection of the Properties in this situation from the encroaching severe wave action, which continues to widen, deepen and shift landward beyond the base of the typical revetment presently in place (see the photograph Exhibits). Without the variance, the homeowners would suffer an unnecessary hardship in the direct and imminent danger the present conditions pose to both the Properties and their inhabitants. While the homeowners await the supposed relief promised by the planned Eastern Channel Project, the conditions have instead worsened, now to the point where emergency, immediate action is necessary in order to complete the essential protection that was originally sought through the homeowner's original May 2014 Permit.

This hardship derives from the existing Rules having been developed with a single dimension description for erosion protection structures being applied to all situations that develop along the Atlantic Ocean coastline. The single dimension description does not take into account the greatly accelerated erosion that can and has taken place on the coastline. Moreover, the Rules do not address situations where the rate of erosion is so dramatic as in this case. While the Rules indicate that "accelerated" erosion may form the basis for the placement of erosion protection structures, they stop short of addressing how the limited structure envisioned by the Rules could reasonably meet the conditions now encountered by the homeowners.

Staff's Position: Yes

While Staff agrees that the Commission's limitations on sandbag structure size are generally appropriate to reduce the effects of erosion in order to afford landowners time enough to receive nourishment or relocate their structures while balancing the rights of the public to access the public trust beach, Staff acknowledges that in this case, a strict application of the rules issued by the Commission will cause the Petitioners unnecessary hardships. Staff acknowledges that there was accelerated erosion at the site at the time of the May 21, 2014 CAMA General Permit issuances. While the currently-existing "regular" sandbags have slowed the effects of erosion on these properties, the sandbags have been regularly overtopped and erosion behind the sandbag structure continues. Staff understands that the Town of Oak Island is attempting to address erosion problems along this and other sections of beach by pursuing permits to realign Eastern Channel and nourishing the beach using the resulting beach quality sand material. If the Town's project is implemented, then the nourishment proposed to be placed at Petitioners' homes should remediate the recent erosion at the Site. For these reasons, Staff agrees that the existing sandbag revetment allowed by a strict application of the Commission's sandbag size limits may not be sufficient to protect these four structures until the planned nourishment takes place.

II. Do such hardships result from conditions peculiar to the petitioner's property, such as location, size, or topography of the property? Explain.

Petitioners' Position: Yes.

Yes. The hardship is unique in that the Petitioners' property has experienced uniquely aggressive and accelerated erosion damage in excess of other parts of the island, likely the result of changed coastline dynamics. Indeed, the proposed creation of the extensive Eastern Channel Project beach nourishment that would dredge sand from the Eastern Channel and place it on certain portions of the West Beach results from the dramatic shift of sand from the coastline of the West Beach to the Eastern Channel and is a recognition by the Town of Oak Island of the serious situation and the dire need of the Properties. For some reason, the accelerated erosion that is plaguing these homeowners is far more severe than the erosion affecting most other homeowners in the area. See the attached Exhibits for pictures of the severe conditions plaguing the homeowners. If the erosion of the dune is allowed to continue, it will result in flooding, not only of the Properties in question, but of the road and thus the interior of the island at this location will be threatened. At this point, a single moderate storm driving a storm surge in front at regular lunar tides could eliminate all remaining dune and pose a significant risk to the Properties and their inhabitants.

Staff's Position: No.

Staff disagrees that Petitioner's hardship is caused by conditions peculiar to the subject property. While not located within the currently applicable Inlet Hazard AEC for the Lockwood Folly Inlet, Staff notes that conditions on the Property are influenced by inlet processes, as evidenced by its inclusion in the CRC Science Panel's previously proposed update to the Lockwood Folly Inlet Hazard AEC "box." The Commission's rules note that inlets are especially volatile and are known to regularly move causing both erosion and accretion. The erosion present at this site is typical of inlets and the adjacent oceanfront shorelines, and periods of accelerated erosion are not unusual. It is difficult for Staff to agree that merely being located near the Lockwood Folly Inlet fulfills the peculiarity criterion regarding "location, size, or topography of the property" and therefore Staff cannot agree that this constitutes a "condition peculiar to the petitioner's property" as required. Therefore, it is Staff's position that the hardships do not result from conditions that are peculiar to the Property.

III. Do the hardships result from the actions taken by the Petitioner? Explain.

Petitioners' Position: No.

No. The hardships do not result from the actions of the Petitioners. The Petitioners have done nothing to accelerate or otherwise aggravate the erosion problem facing their properties. Instead, the Petitioners have – at great personal expense – endeavored to mitigate the hardships to the extent permitted by the current Rules through, among other things, installing an existing sandbag structure, which has failed to protect the infrastructures from imminent danger.

Staff's Position: No.

Staff agrees that the Petitioners have done nothing to create or accelerate the erosion affecting the Property and has taken reasonable steps to address the problem, and therefore meets this statutory criterion.

IV. Will the variance requested by the petitioner (1) be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; (2) secure the public safety and welfare; and (3) preserve substantial justice? Explain.

Petitioners' Position: Yes.

Yes. G.S. § 113-118(f) specifically contemplates the issuance of emergency permits for extraordinary situations in which structural property is in "imminent danger as a result of storms . . . or similar occurrence." The variance sought is the minimum necessary to preserve the Properties and their improvements, as well as their inhabitants, in the face of imminent danger. It would not grant the right to use hardened structures, which would be counter to the core philosophy of the Coastal Area Management Act. Finally, the larger sandbag structure should allow protection of the house structures and hopefully will address the erosion that has resulted from the severe wave action, especially until such time as the Town of Oak Island can implement its Eastern Channel Project to provide beach nourishment for the West End.

Further, allowing the Petitioners to construct a supplemental sandbag revetment to address the unique and severe erosion – rather than steadfastly adhering to the blanket prohibition of such structures in the Rules – is consistent with the Commission's dedication to preserve and protect the habitat, protect public trust beaches, and also to rational management of North Carolina's shorelines. Indeed, since the shoreline at this area of the Point is quickly disappearing, the protection of these adjacent dunes and housing structures with a more comprehensive response to the rapid erosion will restore and protect vital habitat for sea turtles, birds and other natural resources. See 15A NCAC 07H .0209(c), 15A NCAC 07M .0202(a), 15A NCAC 07H .0101(a) and (b), 15A NCAC 07H .0203, 15A NCAC 07H .0207(c), 15A NCAC 07H .0303(b). Both the U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service have approved the Petitioners' request for the additional sandbag revetment, subject to certain conditions. See Exhibits. The requested variance also comports with the Commission's goals of protecting life, property and amenities from destruction of damage from rapid erosion, such as that impacting the Petitioners' Properties. See 15A NCAC 07M .0201. In addition, the Commission clearly recognizes that "[t]he loss of life and property to [destructive forces indigenous to the Atlantic shoreline] . . . can be greatly reduced by . . . care taken in prevention of damage to natural protective features particularly primary and frontal dunes."

Finally, the sandbag revetment sought in this variance request is a temporary solution to the erosion-related problems facing the Petitioners. The goal of sandbag revetment is to attempt to mitigate harm to the beach, the dune, wildlife and the Properties at the West End until such time as the Eastern Channel Project can be implemented. See 15A NCAC 07M .0202(e).

The severe erosion threatens public safety and welfare. The Properties have already suffered significant damage (i.e. the destruction of the stairs affixed to one of the Properties) and, without a variance, we expect similar damage to at least two, and maybe more, of the Petitioners' houses. The revetment requested is a last resort and intended to protect the Properties and their inhabitants until the Eastern Channel Project can be implemented.

The variance will preserve substantial justice by permitting the Petitioners to install and maintain a sandbag revetment as it will protect the house structures long enough for the Town to implement the proposed Eastern Channel project to place needed sand on this shoreline. The Petitioners will undertake the proposed work at their own expense as a short-term measure of last resort to attempt to protect from imminent and substantial harm the Properties, their inhabitants, the habitat and potentially other infrastructure.

Staff's Position: Yes.

Staff agrees that the proposed expansion of the sandbag revetment in front of Petitioners' lots is consistent with the spirit, purpose, and intent of the rules. The sandbag rules are, in effect, an exception to the General Assembly's and the Commission's ban on permanent erosion control structures, available to all "imminently threatened structures." While sandbags constructed pursuant to the Commission's rules are sufficient to provide structural protection in most cases, in some situations these limitations may result in sandbags that are not of a sufficient size to offer the temporary protection they are intended to offer. Petitioners tried using "regular" sandbags since May, 2014 to slow erosion, but the sandbags have been regularly overtopped and the escarpment is moving closer to the structural pilings of the residences. Accordingly, Staff does not disagree with Petitioners' conclusion that larger sandbags are needed as temporary protection while the Town of Oak Island's efforts to implement its Eastern Channel relocation and nourishment project continues to move forward.

Staff agrees that the variance would protect public safety and welfare and preserves substantial justice since it appears that, despite Petitioners' efforts to protect their structures with the existing sandbags, and the Town's best efforts to address the erosion issue through pursuit of its Eastern Channel relocation and nourishment plan, the existing sandbags may not be sufficient to protect Petitioners' structures until the Town's plan can be implemented. As the beach in front of Petitioners' property is already only marginal for use by the public and as habitat, larger sandbags at this Site should not significantly harm public trust and habitat usage.

Attachment D:

Petitioner's Variance Request Materials

(With the exception of (1) Petitioner's first draft of proposed facts and (2) any exhibits which were stipulated to and are now stipulated exhibits in Attachment E.)



October 29, 2014

Barry P. Golob
Direct Phone 202-912-4815
Direct Fax 202-618-4843
bgolob@cozen.com

Braxton Davis, Director
Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557

RECEIVED

OCT 30 2014

DCM-MHD CITY

Amy Bircher, Esq.
Attorney General's Office
Environmental Division
114 W. Edenton Street
Raleigh, NC 27603

**Re: Golob, et al. Sandbag Project –Oak Island, West Beach
Variance Request**

Dear Mr. Davis and Ms. Bircher:

Enclosed please find the CAMA Variance Request Form and Attachments sent on behalf of the four properties located at 6615-6623 West Beach Drive, Oak Island.

Thank you very much for your consideration.

Please let me know if you need any further information.

Sincerely,

Barry P. Golob

Enclosure

cc: Debra Wilson (via email)
Heather Coats (via email)
Steve Foster, Oak Island Town Manger (via email)

CAMA VARIANCE REQUEST FORM

DCM FORM 11
DCM FILE No.: 14-15

PETITIONER'S NAME Barry Golob, Esquire

COUNTY WHERE THE DEVELOPMENT IS PROPOSED Brunswick

Pursuant to N.C.G.S. § 113A-120.1 and 15A N.C.A.C. 07J .0700 *et seq.*, the above named Petitioner hereby applies to the Coastal Resources Commission (CRC) for a variance.

VARIANCE HEARING PROCEDURES

A variance petition will be considered by the CRC at a regularly scheduled meeting, heard in chronological order based upon the date of receipt of a complete petition. 15A N.C.A.C. 07J .0701(e). A complete variance petition, as described below, must be *received* by the Division of Coastal Management (DCM) a minimum of six (6) weeks in advance of the first day of a regularly scheduled CRC meeting to be eligible for consideration by the CRC at that meeting. 15A N.C.A.C. 07J .0701(e). The final set of stipulated facts must be agreed to at least four (4) weeks prior to the first day of a regularly scheduled meeting. 15A N.C.A.C. 07J .0701(e). The dates of CRC meetings can be found at DCM's website: **www.nccoastalmanagement.net**

If there are controverted facts that are significant in determining the propriety of a variance, or if the Commission determines that more facts are necessary, the facts will be determined in an administrative hearing. 15A N.C.A.C. 07J .0701(b).

VARIANCE CRITERIA

The petitioner has the burden of convincing the CRC that it meets the following criteria:

- (a) Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? Explain the hardships.
- (b) Do such hardships result from conditions peculiar to the petitioner's property such as the location, size, or topography of the property? Explain.
- (c) Do the hardships result from actions taken by the petitioner? Explain.
- (d) Will the variance requested by the petitioner (1) be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; (2) secure the public safety and welfare; and (3) preserve substantial justice? Explain.


Please make your written arguments that Petitioner meets these criteria on a separate piece of paper. The Commission notes that there are some opinions of the State Bar which indicate that non-attorneys may not represent others at quasi-judicial proceedings such as a variance hearing before the Commission. These opinions note that the practice of professionals, such as engineers, surveyors or contractors, representing others in quasi-judicial proceedings through written or oral argument, may be considered the practice of law. Before you proceed with this variance request, you may wish to seek the advice of counsel before having a non-lawyer represent your interests through preparation of this Petition.

For this variance request to be complete, the petitioner must provide the information listed below. The undersigned petitioner verifies that this variance request is complete and includes:

- A The name and location of the development as identified on the permit application;
- B A copy of the permit decision for the development in question;
- C A copy of the deed to the property on which the proposed development would be located;
- D A complete description of the proposed development including a site plan;
- E A stipulation that the proposed development is inconsistent with the rule at issue;
- F Proof that notice was sent to adjacent owners and objectors*, as required by 15A N.C.A.C. 07J .0701(c)(7);
- N/A Proof that a variance was sought from the local government per 15A N.C.A.C. 07J 0701(a), if applicable;
- G Petitioner's written reasons and arguments about why the Petitioner meets the four variance criteria, listed above;
- H A draft set of proposed stipulated facts and stipulated exhibits. Please make these verifiable facts free from argument. Arguments or characterizations about the facts should be included in the written responses to the four variance criteria instead of being included in the facts.
- This form completed, dated, and signed by the Petitioner or Petitioner's Attorney.

**Please contact DCM or the local permit officer for a full list of comments received on your permit application. Please note, for CAMA Major Permits, the complete permit file is kept in the DCM Morehead City Office.*

Due to the above information and pursuant to statute, the undersigned hereby requests a variance.


Signature of Petitioner or Attorney

Oct. 29, 2014
Date

Barry P. Golob
Printed Name of Petitioner or Attorney

bgolob@cozen.com
Email address of Petitioner or Attorney

1627 I Street, NW, Suite 1100
Mailing Address

202.912.4815 (O); 301.920.6655 ©
Telephone Number of Petitioner or Attorney

Washington, DC 20006
City State Zip

202.861.1905
Fax Number of Petitioner or Attorney

DELIVERY OF THIS HEARING REQUEST

This variance petition must be **received by** the Division of Coastal Management at least six (6) weeks before the first day of the regularly scheduled Commission meeting at which it is heard. A copy of this request must also be sent to the Attorney General's Office, Environmental Division, 15A N.C.A.C. 07J .0701(e).

Contact Information for DCM:

Contact Information for Attorney General's Office:

By mail, express mail or hand delivery:

Director
Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557

By mail:

Environmental Division
9001 Mail Service Center
Raleigh, NC 27699-9001

By Fax:

(252) 247-3330

By express mail:

Environmental Division
114 W. Edenton Street
Raleigh, NC 27603

By Email:

Check DCM website for the email
address of the current DCM Director
www.nccoastalmanagement.net

By Fax:

(919) 716-6767

Revised: July 2014

Petitioners (homeowners) located at 6615, 6617, 6621, and 6623 West Beach Drive, Oak Island, NC stipulate that the proposed development is inconsistent with 15A NCAC 07H .0308.

PROPOSED SANDBAG PROJECT – OAK ISLAND, WEST BEACH

The Petitioners are homeowners (“homeowners”) of certain oceanfront property on the west end of Oak Island, approximately one-half mile from what is commonly referred to as “The Point”, being four properties located at 6615-6623 West Beach Drive, Oak Island (the “Properties”).

Since January 2014, the homeowners have experienced significant shoreline erosion of approximately 40-60 feet. This erosion is due to strong winds, swells and surges of extremely high lunar tides that produce severe wave action, and has resulted in the shoreline being pushed up directly against the escarpment.

Based on this accelerated erosion, the homeowners received a Coastal Area Management Act General Permit on May 21, 2014 to construct a sandbag structure to protect the Properties from further erosion. The sandbag structures were constructed on each of the Properties in accordance with 15A NCAC 7H .0308(a)(2)(E) and (K) with a height of 6 feet and a base width of 20 feet.

Due to settlement, shifting, and the severe wave action, the height of the sandbags above grade is much less at the present time and the Properties have sustained significant damage including the destruction of stairs and other improvements (See Attachment H, Exhibit 6 --photographs from September 9, 2014). Indeed, many of the sandbags have collapsed from the original structure, and it has been necessary to remove them in order to protect repairs necessitated by the severe wave action. The progressive settlement and shifting, along with this severe wave action, have caused the sandbag structure to be rendered ineffective to protect the escarpment from continued erosion and expose the Properties and their occupants to imminent danger.

Variance Request

The homeowners (Petitioners) hereby request that a variance be granted for an expedited Permit for the following:

1. Authorization to enlarge the existing sandbag structure to a maximum width of 30 feet and a maximum height of 15.7 feet NAVD 88, and to maintain such structure at these maximum width and height parameters; and
2. Authorization to acquire beach compatible sand from an upland source to cover the sandbags after installation.

Variance Criteria

Petitioners meet the four variance criteria listed in the CAMA Variance Request Form for the following reasons. Petitioners incorporate herein by reference in each section below the Attachments and Exhibits to this Petition.

(a) Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the Petitioners unnecessary hardships?

Yes. CAMA rules, including 15A NCAC 07H .0308, were written for the “normal” cases of threatened structures where typical sandbag protection can be effective in securing the temporary protection of structures. Due to the particular physical conditions present in this case, including strong winds, swells and surges of extremely high lunar tides that produce severe wave action, however, strict application of these rules will not provide the protection needed to allow the Properties and their improvements to survive without significant damage or total collapse. The ordinary six-foot limit on revetment height and twenty-foot water ward limit on revetment location have resulted in a completely ineffective protection of the Properties in this situation from the encroaching severe wave action, which continues to widen, deepen and shift landward beyond the base of the typical revetment presently in place (See Photographs at Attachment H, Exhibits 6-10). Without the variance, the homeowners would suffer an unnecessary hardship in the direct and imminent danger the present conditions pose to both the Properties and their inhabitants. While the homeowners await the supposed relief promised by the planned Eastern Channel Project, the conditions have instead worsened, now to the point where emergency, immediate action is necessary in order to complete the essential protection that was originally sought through the homeowner’s original May 2014 Permit.

This hardship derives from the existing Rules having been developed with a single dimension description for erosion protection structures being applied to all situations that develop along the Atlantic Ocean coastline. The single dimension description does not take into account the greatly accelerated erosion that can and has taken place on the coastline. Moreover, the Rules do not address situations where the rate of erosion is so dramatic as in this case. While the Rules indicate that “accelerated” erosion may form the basis for the placement of erosion protection structures, they stop short of addressing how the limited structure envisioned by the Rules could reasonably meet the conditions now encountered by the homeowners.

(b) Do such hardships result from conditions peculiar to the Petitioners’ property such as the location, size, or topography of the property?

Yes. The hardship is unique in that the Petitioners’ property has experienced uniquely aggressive and accelerated erosion damage in excess of other parts of the island, likely the result of changed coastline dynamics. Indeed, the proposed creation of the extensive Eastern Channel Project beach nourishment that would dredge sand from the Eastern Channel and place it on certain portions of the West

Beach results from the dramatic shift of sand from the coastline of the West Beach to the Eastern Channel and is a recognition by the Town of Oak Island of the serious situation and the dire need of the Properties. For some reason, the accelerated erosion that is plaguing these homeowners is far more severe than the erosion affecting most other homeowners in the area. See Photographs at Attachment H, Exhibits 6-10 -- of the severe conditions plaguing the homeowners. If the erosion of the dune is allowed to continue, it will result in flooding, not only of the Properties in question, but of the road and thus the interior of the island at this location will be threatened. At this point, a single moderate storm driving a storm surge in front at regular lunar tides could eliminate all remaining dune and pose a significant risk to the Properties and their inhabitants.

(c) Do the hardships result from actions taken by the Petitioners?

No. The hardships do not result from the actions of the Petitioners. The Petitioners have done nothing to accelerate or otherwise aggravate the erosion problem facing their properties. Instead, the Petitioners have – at great personal expense – endeavored to mitigate the hardships to the extent permitted by the current Rules through, among other things, installing an existing sandbag structure, which has failed to protect the infrastructures from imminent danger.

(d) Will the variance requested by the Petitioners (1) be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; (2) secure the public safety and welfare; and (3) preserve substantial justice?

Yes. G.S. § 113-118(f) specifically contemplates the issuance of emergency permits for extraordinary situations in which structural property is in “imminent danger as a result of storms . . . or similar occurrence.” The variance sought is the minimum necessary to preserve the Properties and their improvements, as well as their inhabitants, in the face of imminent danger. It would not grant the right to use hardened structures, which would be counter to the core philosophy of the Coastal Area Management Act. Finally, the larger sandbag structure should allow protection of the house structures and hopefully will address the erosion that has resulted from the severe wave action, especially until such time as the Town of Oak Island can implement its Eastern Channel Project to provide beach nourishment for the West End.

Further, allowing the Petitioners to construct a supplemental sandbag revetment to address the unique and severe erosion – rather than steadfastly adhering to the blanket prohibition of such structures in the Rules – is consistent with the Commission’s dedication to preserve and protect the habitat, protect public trust beaches, and also to rational management of North Carolina’s shorelines. Indeed, since the shoreline at this area of the Point is quickly disappearing, the protection of

these adjacent dunes and housing structures with a more comprehensive response to the rapid erosion will restore and protect vital habitat for sea turtles, birds and other natural resources. See 15A NCAC 07H .029(c), 15A NCAC 07M .0202(a), 15A NCAC 07H .0101(a) and (b), 15 A NCAC 07H .0203, 15 A NCAC 07H .0207(c), 15A NCAC 07H .0303(b). Both the U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service have approved the Petitioners' request for the additional sandbag revetment, subject to certain conditions. See Photographs at Attachment H, Exhibits 6-10. The requested variance also comports with the Commission's goals of protecting life, property and amenities from destruction of damage from rapid erosion, such as that impacting the Petitioners' Properties. See 15A NCAC 07M .0201. In addition, the Commission clearly recognizes that "[t]he loss of life and property to [destructive forces indigenous to the Atlantic shoreline] . . . can be greatly reduced by . . . care taken in prevention of damage to natural protective features particularly primary and frontal dunes."

Finally, the sandbag revetment sought in this variance request is a temporary solution to the erosion-related problems facing the Petitioners. The goal of sandbag revetment is to attempt to mitigate harm to the beach, the dune, wildlife and the Properties at the West End until such time as the Eastern Channel Project can be implemented. See 15A NCAC 07M .0202(e).

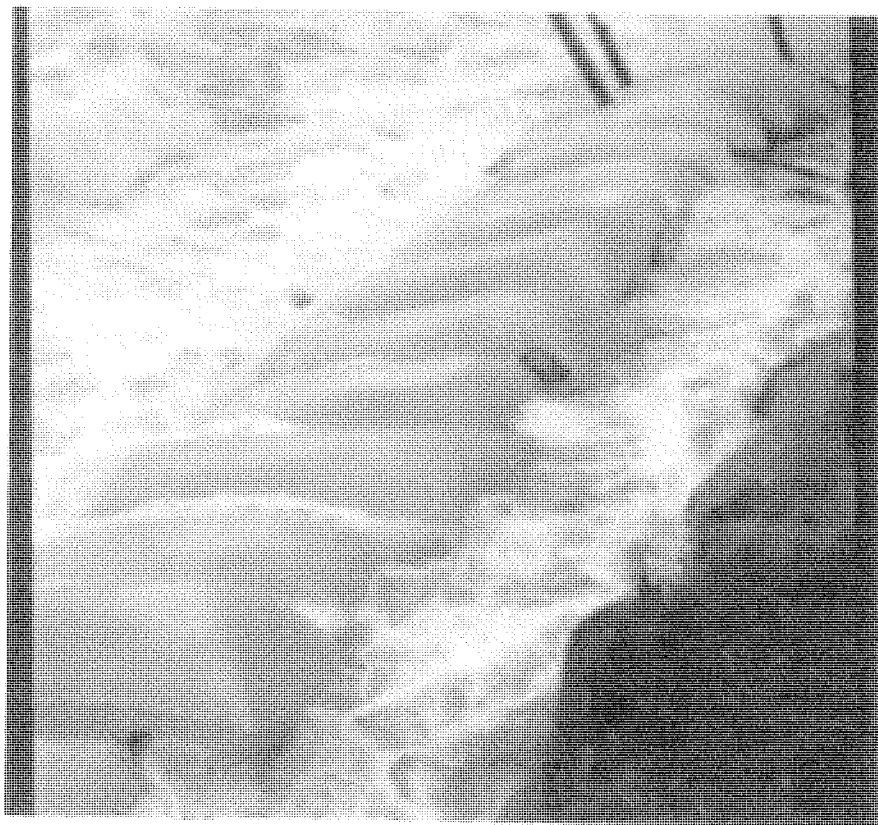
The severe erosion threatens public safety and welfare. The Properties have already suffered significant damage (i.e., the destruction of the stairs affixed to one of the Properties) and, without a variance, the Petitioners expect similar damage to at least two, and maybe more, of the Petitioners' houses. The revetment requested is a last resort and intended to protect the Properties and their inhabitants until the Eastern Channel Project can be implemented.

The variance will preserve substantial justice by permitting the Petitioners to install and maintain a sandbag revetment as it will protect the house structures long enough for the Town to implement the proposed Eastern Channel project to place needed sand on this shoreline. The Petitioners will undertake the proposed work at their own expense as a short-term measure of last resort to attempt to protect from imminent and substantial harm the Properties, their inhabitants, the habitat and potentially other infrastructure.

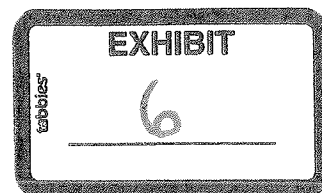
Request for Expedited Hearing

Pursuant to G.S. § 143-318.12(f), the Petitioners respectfully request that the Coastal Resources Commission call an expedited meeting, to be held either in person or by telephone, as quickly as possible. The Petitioners believe that the unexpected and uncontrollable conditions described herein have left the Properties dangerously exposed, and this dangerous condition cannot be left unattended awaiting the next Commission meeting without risking severe consequences. These circumstances are generally unexpected and require the immediate attention of the Commission.

Thank you for your consideration.



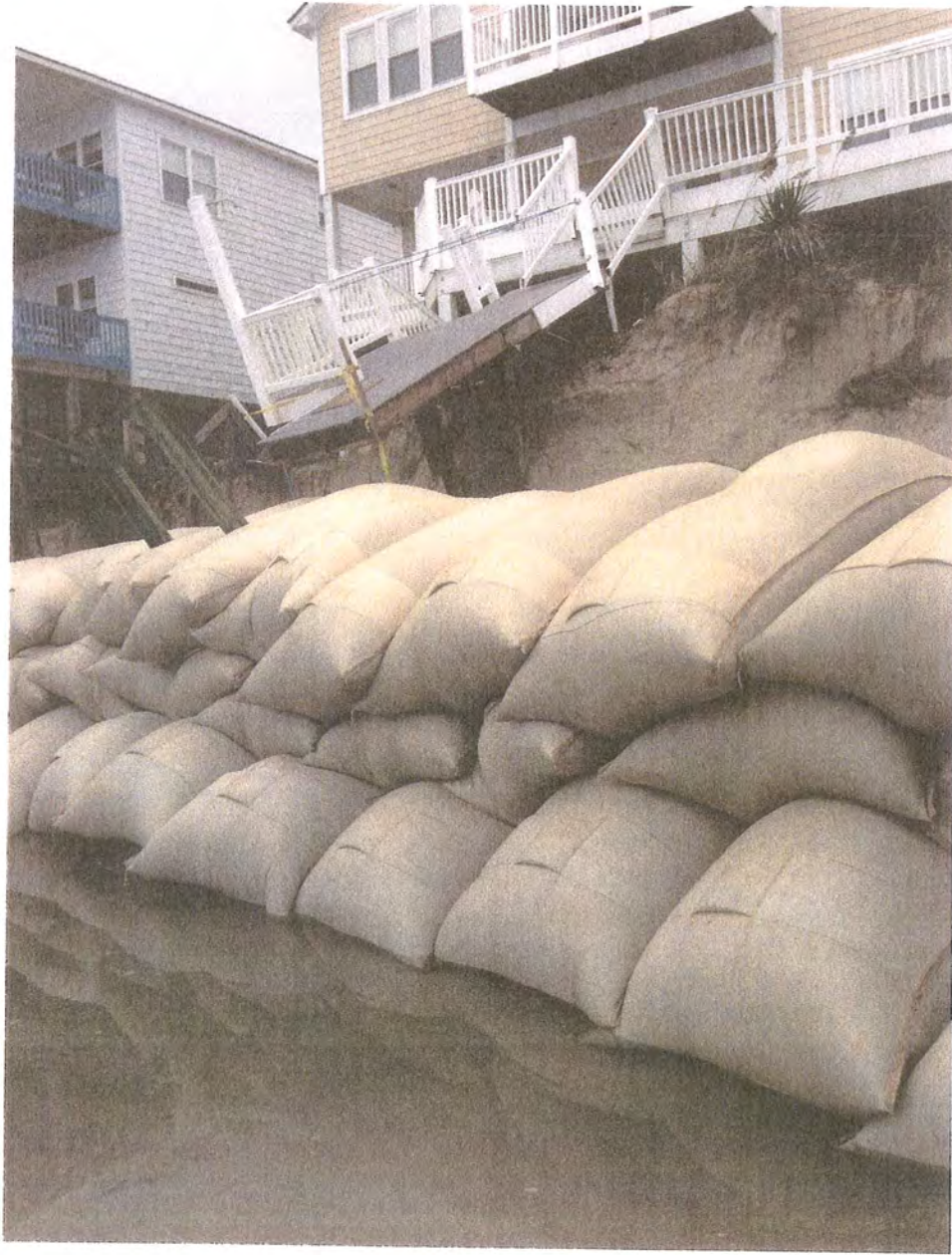
September 9





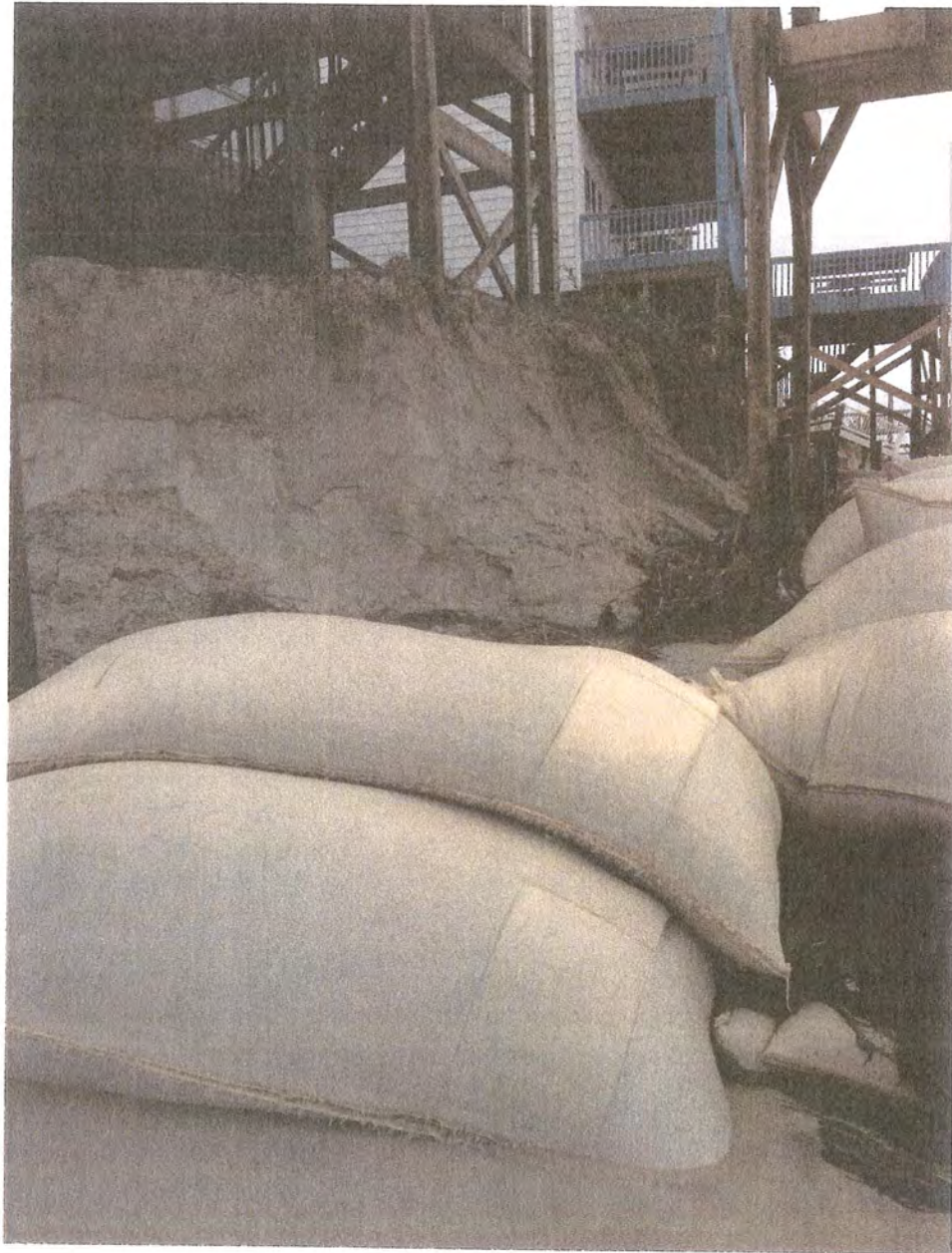
September 9





September 9

tabbiter
EXHIBIT
6



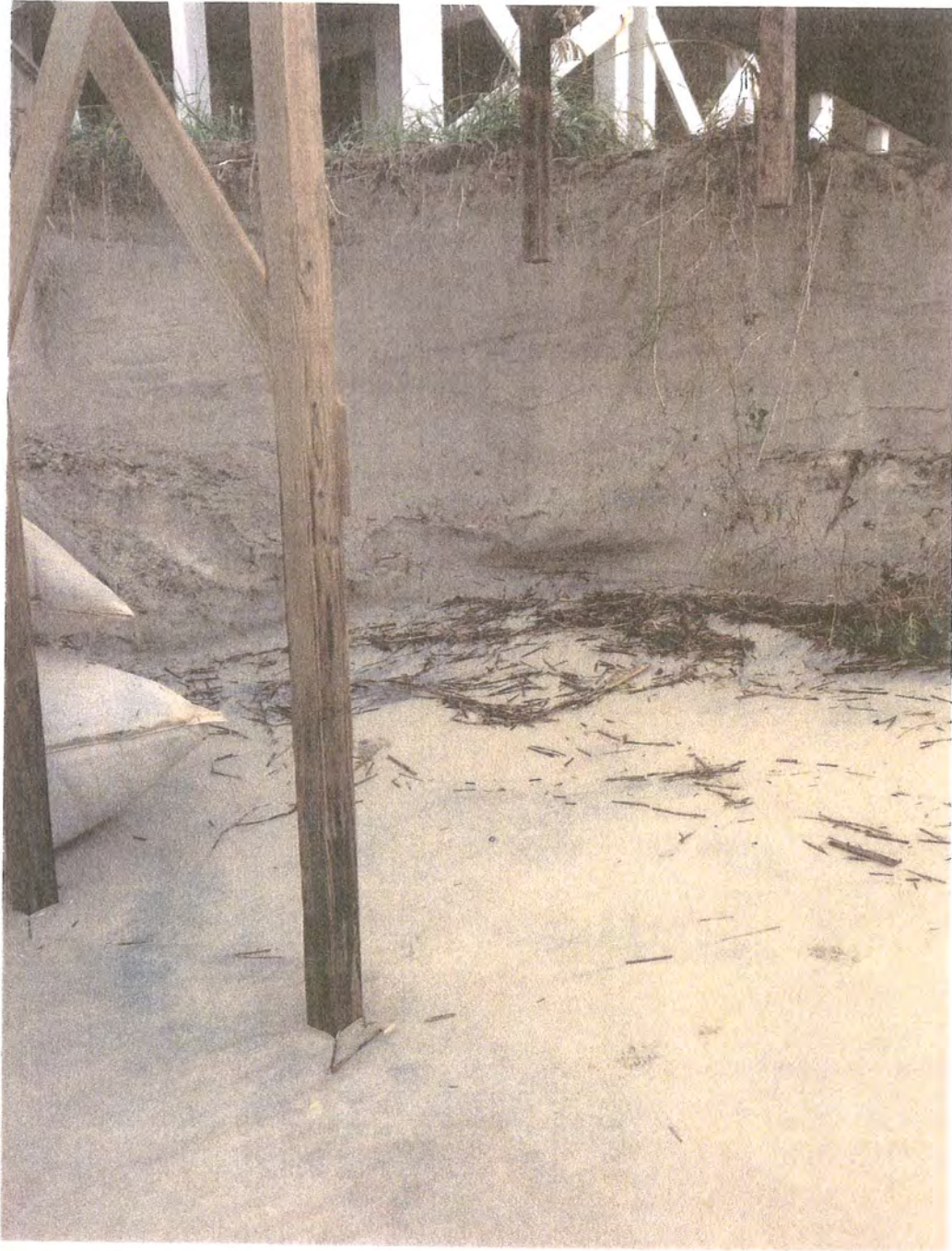
September 9





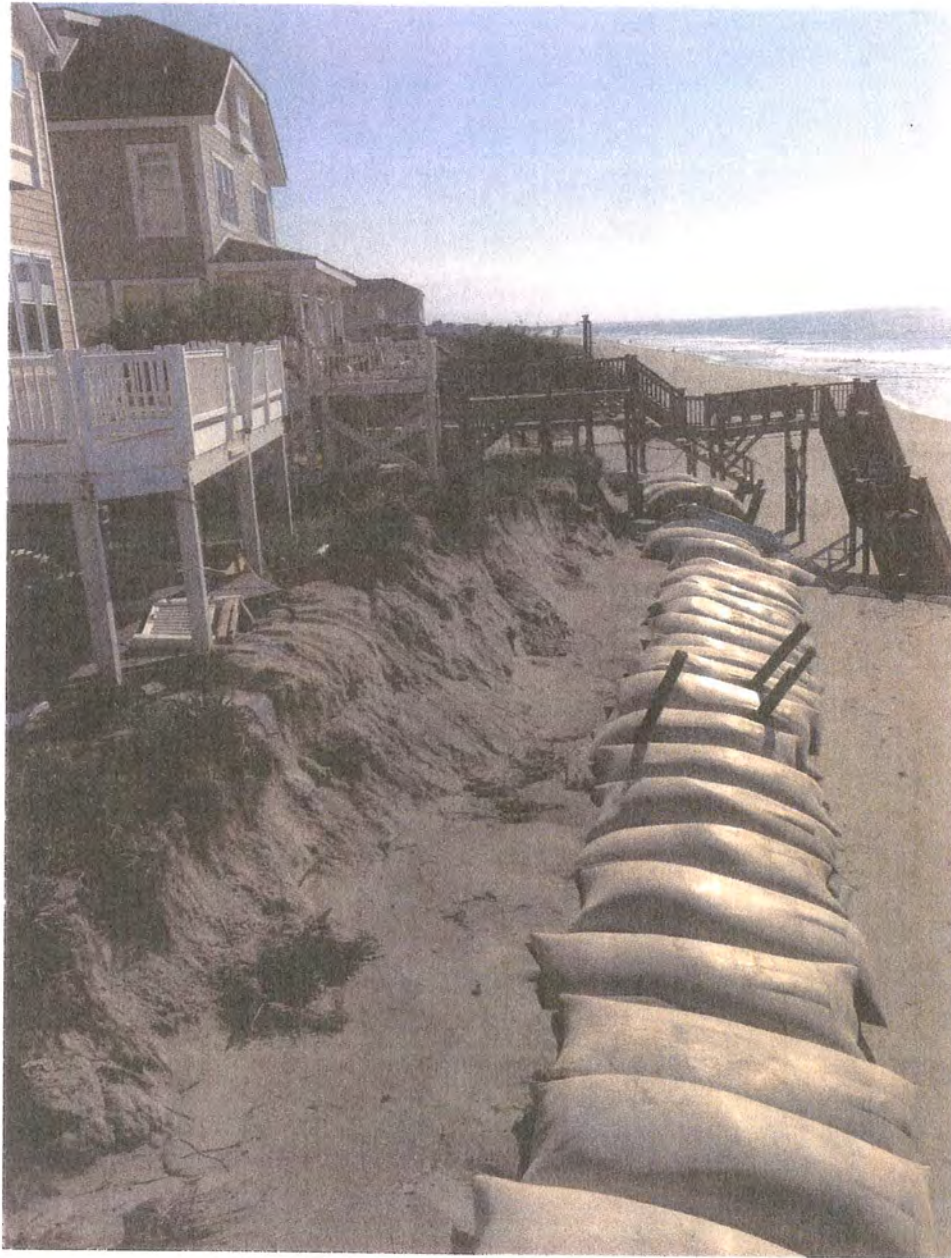
September 9





September 9





Homes located at 6615 and 6617 West Beach Drive
September 10





September 17





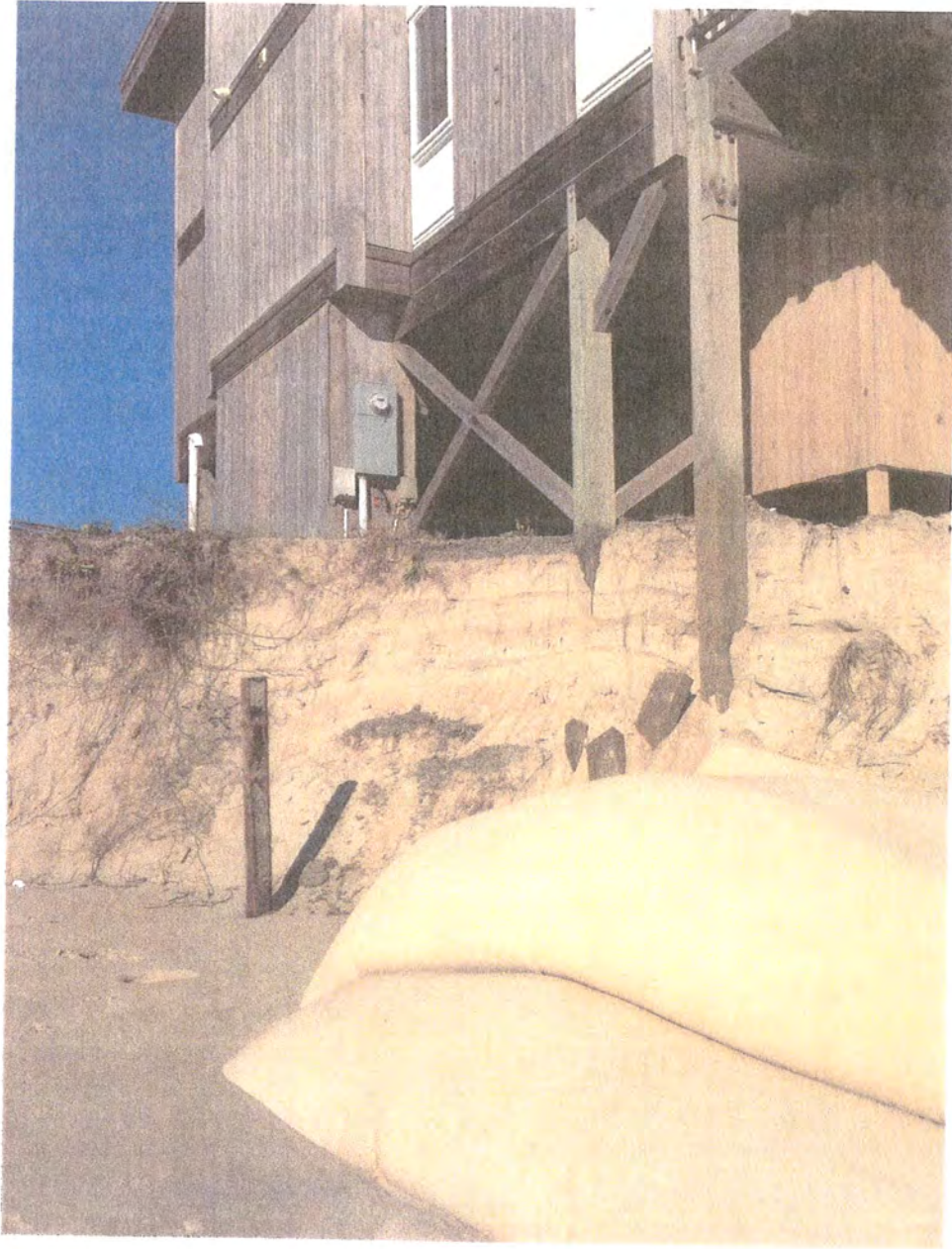
October 16 – Low Tide





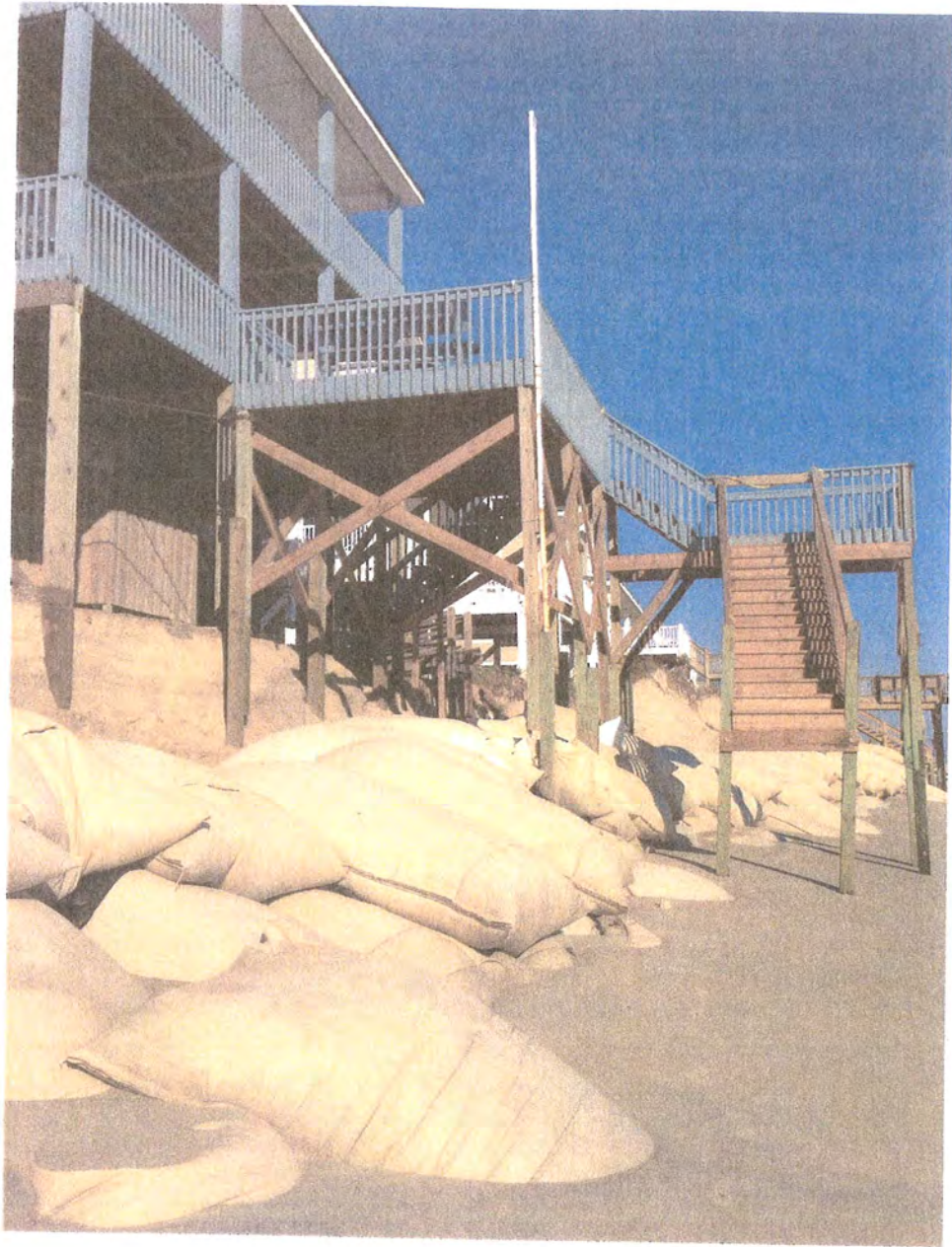
October 16





October 26



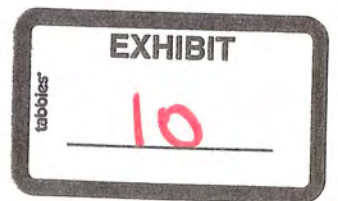


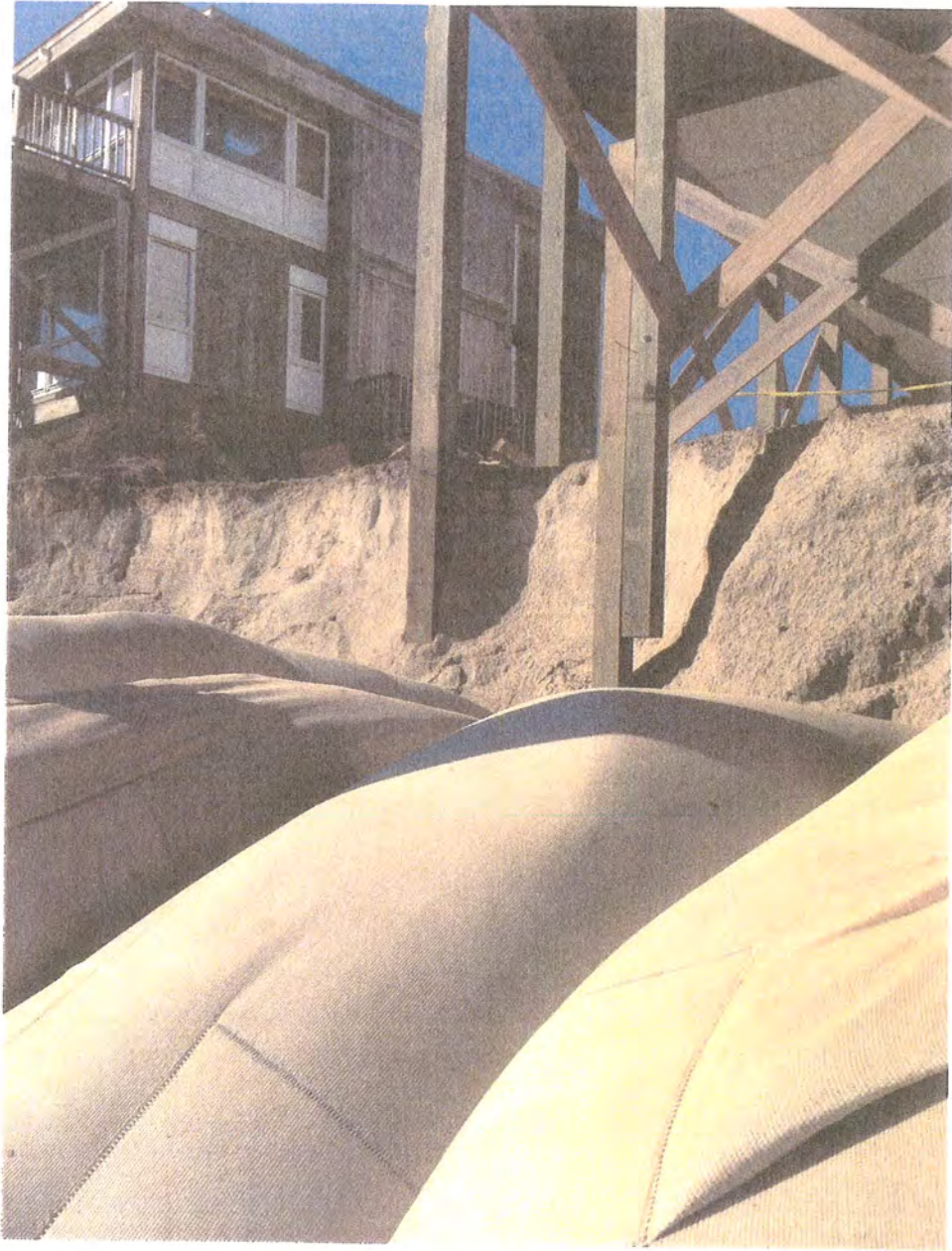
October 26



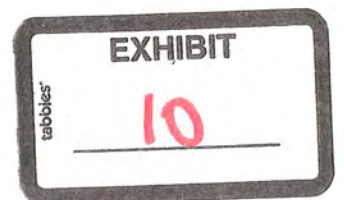


October 26





October 26



**DIVISION OF COASTAL MANAGEMENT
ADJACENT RIPARIAN PROPERTY OWNER NOTIFICATION FORM
CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

I hereby certify that I own property adjacent to Barry Golob's
(Name of Property Owner)

property located at 6615 West Beach Drive
(Address, Lot, Block, Road, etc.)

on Atlantic Ocean, in Oak Island, N.C.
(Waterbody) (City/Town and/or County)

Agent's Name #: Barry Golob Mailing Address: 1627 I Street, NW
Agent's phone #: 202-912-4815 Washington, DC 20006

He/She has described to me as shown below the development he/she is proposing at that location, and I have no objections to the proposal.

DESCRIPTION AND/OR DRAWING OF PROPOSED DEVELOPMENT
(Individual proposing development must fill in description below or attach a site drawing)

Variance Request of October 30, 2014 to add sandbag revetment structure per the attached materials.

If you have objections to what is being proposed, you must notify the Division of Coastal Management (DCM) in writing within 10 days of receipt of this notice. Contact information for DCM offices is available at <http://www.nccoastalmanagement.net/web/cm/staff-listing> or by calling 1-888-4RCOAST. No response is considered the same as no objection if you have been notified by Certified Mail.

(Property Owner Information)

Barry Golob
Signature

Barry Golob
Print or Type Name

1627 I Street, NW, Suite 1100
Mailing Address

Washington, DC 20006
City/State/Zip

202-912-4815 / bgolob@cozen.com
Telephone Number / Email Address

Date

(Riparian Property Owner Information)

Cathy Lovejoy
Signature

Cathy Lovejoy
Print or Type Name

2207 Granville Road
Mailing Address

Greensboro, NC 27408
City/State/Zip

336-558-9598
Telephone Number / Email Address

11-5-14
Date

DIVISION OF COASTAL MANAGEMENT
ADJACENT RIPARIAN PROPERTY OWNER NOTIFICATION FORM
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

I hereby certify that I own property adjacent to Chris & Erika Atkinson's
(Name of Property Owner)

property located at 6623 West Beach Drive
(Address, Lot, Block, Road, etc.)

on Atlantic Ocean, in Oak Island, N.C.
(Waterbody) (City/Town and/or County)

Agent's Name #: Barry P. Golob Mailing Address: 1627 I Street, NW
Agent's phone #: 202-912-4815 Washington, DC 20006

He/She has described to me as shown below the development he/she is proposing at that location, and I have no objections to the proposal.

DESCRIPTION AND/OR DRAWING OF PROPOSED DEVELOPMENT
(Individual proposing development must fill in description below or attach a site drawing)

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If you have objections to what is being proposed, you must notify the Division of Coastal Management (DCM) in writing within 10 days of receipt of this notice. Contact information for DCM offices is available at <http://www.nccoastalmanagement.net/web/cm/staff-listing> or by calling 1-888-4RCOAST. No response is considered the same as no objection if you have been notified by Certified Mail.

(Property Owner Information)

Barry Golob
Signature

Barry Golob
Print or Type Name

1627 I Street, NW, Suite 1100
Mailing Address

Washington, DC 20006
City/State/Zip

202-912-4815 / bgolob@cozen.com
Telephone Number / Email Address

Date

(Riparian Property Owner Information)

Sarah Powell / JC Jeff Powell / JC
Signature

Jefferson & Sarah Powell
Print or Type Name

4300 Landing Trail
Mailing Address

Hillsborough, NC 27278
City/State/Zip

(919) 219-6408
Telephone Number / Email Address

11/05/14
Date



November 6, 2014

Barry P. Golob

Direct Phone 202-912-4815
Direct Fax 202-618-4843
bgolob@cozen.com

Administrative Office of the Courts
Attention: Kesha Howell
PO Box 2448
Raleigh, NC 27602

**Re: *Pro Hac Vice* Application of Barry Golob
In the Matter of Petition for Variance by Barry Golob, Mark Davenport,
David and Voncille Litz, and Christopher Atkinson
Action Number CRC-VR-14-15**

Dear Ms. Howell:

I have recently applied for *Pro Hac Vice* Admission before the North Carolina Coastal Resources Commission in the above-referenced matter.

Enclosed please find a check for \$200. in accordance with the North Carolina State Bar rules and guidelines.

Please let me know if you need anything further.

Sincerely,

/s/ Barry P. Golob

Barry P. Golob

cc: Mary Lucasse, Esq., Special Deputy Attorney General
Christine Goebel, Esq., Assistant Attorney General

Enclosure



PRO HAC VICE ADMISSION REGISTRATION STATEMENT
Filed by the North Carolina Responsible Attorney Rev. 8/22/12

This registration statement must be filed by the member of the North Carolina State Bar who agrees to be listed as the responsible North Carolina attorney, pursuant to G.S. 84-4.1(5), in a motion for pro hac vice admission filed by an attorney who is licensed by another jurisdiction. The North Carolina bar member must complete and file this registration statement as required by 27 N.C.A.C. 1H, Section .0100, within thirty (30) days of the entry of the court's order granting admission to the out of state attorney.

PLEASE READ INSTRUCTIONS BEFORE COMPLETING.

NC Proceeding File # CRL-UR-14-15

1. Out of State Attorney Information:

First Name: Barry Middle: P. Last: Golob
Licensure (if more than one, please provide all applicable information)
State: District of Columbia
Bar #: 437754
Home Address: 10820 Hub Nail Ct.
Potomac, MD 20854
Law Firm Name (if more than one, list on addendum with information requested below):
Cozen O'Connor
Business Address: 1627 I St NW, Washington, DC, 20006
Phone #: 202 912 4815

2. North Carolina State Bar Member (Responsible Attorney) Information:

First Name: Svend Middle: H. Last: Deal
N.C. Bar #: 32793
Address (as listed with State Bar):
301 S. College St. Charlotte N.C. 28202
Phone #: 704 348 3426 Email: sdeal@cozen.com

For Office Use Only:		PHV Motion and Order:	
Received: _____		<input type="checkbox"/> Attached	<input type="checkbox"/> Not Attached
Fee Paid: <input type="checkbox"/> To Clerk of Court		<input type="checkbox"/> Requested on _____	
<input type="checkbox"/> Check Enclosed		Statement of Tax Reporting:	
No.: _____ Date: _____		<input type="checkbox"/> Attached	<input type="checkbox"/> Not Attached
<input type="checkbox"/> Not enclosed		<input type="checkbox"/> Requested on _____	
<input type="checkbox"/> Requested on _____		Date notification sent: _____	
Date entered: _____			

6. **Payment Information.** Please see page 1 of instructions.

Indicate method of payment by checking below.

Collected by Clerk of Court (if proceeding filed in NC General Court of Justice or NC Court of Appeals).

Please provide photocopy of receipt or check number and date of check.

Check # _____ Check Date _____

OR


Check enclosed, payable to North Carolina State Bar (if the clerk fails to collect the fee or if the matter is filed in an administrative tribunal).

7. **Responsible Attorney Verification.**

By signing below, the responsible attorney acknowledges that truth of the foregoing statements and agrees to **notify the State Bar of the final determination** of the court or agency proceeding.

[Signature]
Signature of NC Attorney

11/25/14
Date

SVEND H DEAL 2112 HIGHLAND ST. CHARLOTTE, NC 28208	2148 66-21/530 BRANCH 04007
<u>11/25/14</u> Date	
Pay to the Order of <u>North Carolina State Bar</u>	\$ <u>25.00</u>
<u>Twenty-five dollars and no cents</u>	Dollars
 WACHOVIA Wachovia Bank, N.A. wachovia.com	<u>[Signature]</u>
For <u>pro hac admission</u>	MP
⑆053000219⑆ 1010054312571⑆ 2148	

STATE OF NORTH CAROLINA)	BEFORE THE NORTH CAROLINA
)	COASTAL RESOURCES
COUNTY OF BRUNSWICK)	COMMISSION
)	CRC-VR-14-15
)	
)	
IN THE MATTER OF PETITION)	
FOR A VARIANCE BY:)	MOTION FOR ADMISSION
BARRY GOLOB,)	<i>PRO HAC VICE</i>
MARK DAVENPORT,)	
DAVID AND VONCILLE LITZ, AND)	
CHRISTOPHER ATKINSON)	

Barry P. Golob, states as follows:

1. I am an attorney licensed to practice in the District of Columbia, Bar No. 437754. I have been retained to represent Mark Davenport, David and Voncille Litz, and Chris Atkinson in this action. I have previously submitted to counsel for both CRC and DCM letters from the parties hereto requesting that I represent them in this proceeding.
2. Unless permitted to withdraw sooner by order of this body, I will continue to represent the above-referenced parties in this proceeding until the final determination thereof, and with reference to all matters incident to this proceeding. I agree that I shall be subject to the orders and amenable to the disciplinary action and civil jurisdiction of the North Carolina Coastal Resources Commission, the General Court of Justice, and the North Carolina State Bar in all respects as if I were a regularly admitted and licensed member of the Bar of North Carolina in good standing.
3. I further affirm that the District of Columbia grants like privileges to the members of the bar of North Carolina in good standing.
4. I have associated and have personally appearing with me in this proceeding Svend Deal of Cozen O'Connor, who is a resident of North Carolina, has agreed to be responsible for filing a registration statement with the North Carolina State Bar, and is duly and legally

admitted to practice in the General Court of Justice of North Carolina, upon whom service may be had in all matters connected with this legal proceeding, or any disciplinary matter, with the same effect as if personally made upon me within the State of North Carolina.

5. I have no record of any disciplinary history, including but not limited to no public discipline by any court or lawyer regulatory organization and no revocation of any *pro hac vice* admission.

Respectfully submitted this 6th day of November, 2014,

COZEN O'CONNOR

/s/ Barry P. Golob
Barry P. Golob
1627 I Street, NW
Washington, DC 20006
Phone: 202.912.4815
Fax: 202.618.4843
bgolob@cozen.com

CERTIFICATE OF SERVICE

This is to certify that I have this day served the foregoing Motion for Admission *Pro Hac*

Vice upon the parties by the methods indicated below:

Mary L. Lucasse, Esq.
Special Deputy Attorney General
N.C. Department of Justice
P.O. Box 629
Raleigh, NC 27602

Electronically at
mlucasse@ncdoj.gov

*Counsel for the
Coastal Resources Commission*

Christine A. Goebel, Esq.
Assistant Attorney General
N.C. Department of Justice
P.O. Box 629
Raleigh, NC 27602

Electronically at
cgoebel@ncdoj.gov

*Counsel for the
Division of Coastal Management*

This the 6th day of November, 2014

/s/ Barry Golob
Barry Golob

Presented by Geddings to Bar
 Total 1988 Rev 1800 Int 188
 Ck # 1988 Ck # 1013 Cash \$ _____
 Refund: _____ Cash \$ _____ Finance _____
 Portions of document are eligible due to condition of original.
 Document contains seals verified by original instrument that cannot be reproduced or copied.

NORTH CAROLINA GENERAL WARRANTY DEED

This instrument prepared by Geddings, Kleva & Campbell, licensed North Carolina attorneys. Delinquent taxes, if any, to be paid by the closing attorney to the Brunswick County Tax Collector upon disbursement of closing proceeds.

Excise Tax: \$ _____ Parcel ID: _____
 Brief Description For The Index: L-12 B-135

THIS DEED made by and between,

GRANTOR

Ralph H. Falls, III and wife, Nancy B. Falls
 1310 South Tryon Street, Suite #104
 Charlotte, NC 28203

GRANTEE

Barry P. Golob and wife, Shari S. Golob
 10820 Hob Nalf Court
 Potomac, MD 20854

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple all that certain lot or parcel of land situated in Brunswick County, North Carolina and more particularly described in EXHIBIT A, attached hereto and made a part hereof.

Geddings, Kleva & Campbell, PLLC
 8721 East Oak Island Drive, Oak Island, North Carolina 28465

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 DCM WILMINGTON, NC

SEP 24 2014



TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee that the Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the following exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

- 1- Ad valorem taxes for the current year;
- 2- Restrictions, easements and rights-of-way of record.

The property being conveyed is ___ / is not the seller's primary residence.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, the day and year first above written.

 (SEAL)
Ralph M. Falls, III

 (SEAL)
Nancy B. Falls

Geddings, Kleva & Campbell, PLLC
8721 East Oak Island Drive, Oak Island, North Carolina 28465



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SEP 24 2014

UNOFFICIAL

B3418 P8422 05-24-2013 10:48:39.890
Freddie N. Clemmons, Notary Public
Wilmington, NC Register of Deeds page 2 of 3

A map showing the above described property is recorded in Map Book, Page:

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

By: _____ (Entity Name) **SETH E. BARKER** (SEAL)

By: *Diene E. Barker* _____ **DIANE E. BARKER** (SEAL)
Title: _____

By: *Diane E. Barker* _____ **DIANE E. BARKER** (SEAL)
Title: _____

By: _____ (SEAL)
Title: _____



State of North Carolina - County of Brunswick
I, Vicki L. McHenry, Notary Public for the County and State aforesaid, certify that Seth E. Barker and Diane E. Barker personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 24 day of May, 2013.

My Commission Expires: 3/29/15
Notary Public *Vicki L. McHenry*

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DCM WILMINGTON, NC

SEP 24 2014



Presenter JEM Ref: Bcr
 (3) Total 26 Rev 1020 Int. 22
 Cr \$ 1102 Cr # 5051 Cash \$ _____
 Refund: _____ Cash % _____ Finance _____
 Portions of document are illegible due to condition of original.
 Document contains seals verified by original instrument that cannot be reproduced or copied.

Brenda M. Clemmons Register of Deeds
 02-07-2014 15:08:45.000 Brunswick County, NC
 NC REVENUE STAMP: \$1020.00 (#381581)

This instrument prepared by: Kevin T. May, a licensed North Carolina attorney. Delinquent taxes, if any, to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds.

Prepared By: Attorney Kevin T. May, Graves May, PLLC
 Instrument prepared without examination as to title

Return To:

Revenue Stamps: \$

Parcel ID: 233NE036

NORTH CAROLINA

GENERAL WARRANTY DEED

BRUNSWICK COUNTY

THIS DEED made and entered into this 7th day of February 2014, by and between **HARRY B. MERRITT, unmarried**, whose address is 338 S. Fremont Street, Apt. 330, San Mateo, CA 94401, hereinafter called "Grantor," and **CHRISTOPHER C. ATKINSON, and wife, ERIKA L. H. ATKINSON** hereinafter called "Grantees," whose mailing address is 8811 Fidelis Lane, Raleigh, NC 27613.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include the singular, plural, masculine, feminine, or neuter as required by context.

WITNESSETH:

That the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in Brunswick County, North Carolina, and more particularly described as follows:

LEGAL DESCRIPTION
 SEE ATTACHED EXHIBIT A

RECEIVED
 DCM WILMINGTON, NC

SEP 24 2014



TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple; that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated, if any.

Title to the property hereinabove described is subject to the following exceptions:

- a. County and/or Municipal Zoning Ordinances, Rules and Regulations.
- b. Restrictive Covenants, Easements and Rights of way of record.
- c. Ad valorem taxes for the year 2014 and thereafter.

_____ If initialed, the property includes the primary residence of at least one of the Grantors.

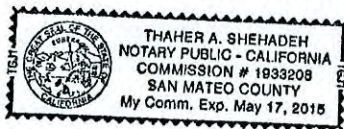
IN WITNESS WHEREOF, the Grantors have hereunto set their hands and seals, the day and year first above written.

[Signature] (SEAL)
HARRY B. MERRITT

STATE OF California
COUNTY OF San Mateo

I, Thaheer A. Shehadeh a Notary Public for San Mateo County, State of California, do hereby certify that **HARRY B. MERRITT** personally appeared before me this day acknowledging to me that they voluntarily signed the foregoing instrument for the purpose stated therein and in the capacity indicated.

Witness my hand and official seal, this the 1st day of Feb, 2014.



[Signature]
Notary Public

My commission expires: MAY 17, 2015

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DCM WILMINGTON, NC

SEP 24 2014



B3498 P0606 02-07-2014
15:08:45.000
Brenda M. Clemmons PROP
of Deeds page 3 of 3

EXHIBIT A

ALL OF LOTS 15A and 15B, BLOCK 135, SECTION 1, KING'S LYNN, as per plat thereof prepared by Howard M. Loughlin, R.L.S., dated February 1963 and recorded in Map Book 7, Page 36, in the office of the Register of Deeds of Brunswick County, North Carolina.

SUBJECT to that perpetual right and easement of ingress and egress by foot, including, without limitation, the right to erect and maintain such boardwalks, steps or other improvements as shall reasonable be necessary or appropriate for the use and enjoyment of the easement, from West Beach Drive, Long Beach (now known as Oak Island), North Carolina, to the mean-high water line of the Atlantic Ocean granted by the Grantor to the owners of lots in Blocks 130, 132R and 133R, Section I, King's Lynn and owners of real property bounded by those blocks on the East, the Atlantic Ocean on the South, Lockwood's Folly Inlet on the West and Lockwood Folly Sound (also known as Old Lockwood Folly River) on the North by instrument of even date herewith, which easement is described as BEING the easternmost five (5) feet of Lot 15-A, Block 135, as shown on the plat of Section I of King's Lynn recorded in Map Book 7, Page 36, in the Brunswick County Registry.

RECEIVED
DCM WILMINGTON, NC

SEP 24 2014

BOOK PAGE
0847 639

FILED FOR REGISTRATION
BOOK 0847 PAGE 639

91 JUN 28 AM 10:27

ROBERT J. ROBINSON
REGISTER OF DEEDS
BRUNSWICK COUNTY, N.C.



Recording Time, Book and Page

Tax Lot No. Parcel Identifier No. 233NF010 + 233NE035
Verified by County on the day of 19
by

Mail after recording to

This instrument was prepared by Michael R. Isenberg

Brief description for the Index

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 21st day of June, 1991, by and between

GRANTOR

GRANTEE

H. RAYMOND MADRY (also known as Raymond H. Madry) and wife BETTY ELLEN MADRY

DAVID L. LITZ and wife VONCILLE E. LITZ, whose mailing address is:

5401 Faulconbridge Rd.
Charlotte, NC 28277

30	233N	233N	E	010	0	
0	233N	233N	E	055	0	

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Long Beach, Smithville Township, Brunswick County, North Carolina and more particularly described as follows:

TRACT ONE: BEING all of Lot 19, Block 136R, Section 1, of Kings Lynn, a section of West Long Beach, according to a map thereof duly recorded in Map Book 7 at Page 36 of the Brunswick County Registry, said lot having the metes, bounds and location as shown on said map.

TRACT TWO: BEGINNING at an iron pipe in the southern right-of-way line of West Beach Drive, said beginning point being the northwestern corner of Lot 15, Block 135 of West Long Beach; run thence from said beginning point with the southern right-of-way line of West Beach Drive north 86° 24 minutes east 50.01 feet to an iron pipe; run thence south 0° 55 minutes 32 seconds east 150.16 feet to a point; thence south 86° 24 minutes west 74.21 feet to a point; thence north 8° 9 minutes east 153.21 feet to the point and place of beginning, being all of Lot 15 and a portion of Lot 14, Block 135, of West Long Beach, according to a map thereof duly recorded in Map Book 3 at Page 113 of the Brunswick County Registry.

1325074
15850 3422
3492

BOOK PAGE
0847 640

The property hereinabove described was acquired by Grantor by instrument recorded in Book 387 at Page 790 and Book 553 at Page 326 of the Brunswick County Registry

A map showing the above described property is recorded in Plat Book 7, Pg. 36 & page Book 3, Pg. 113.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

This property is subject to restrictions of record in the chain of title.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

.....
(Corporate Name)
BY:
..... President
ATTEST:
..... Secretary (Corporate Seal)

USE BLACK INK ONLY

H. Raymond Madry
H. Raymond Madry
Betty Ellen Madry
Betty Ellen Madry

SEAL-STAMP

NORTH CAROLINA, Wake County.

I, a Notary Public of the County and State aforesaid, certify that H. Raymond Madry and his wife Betty Ellen Madry personally appeared before me this day and acknowledged the execution of the foregoing instrument by their hand and official stamp or seal, this 21st day of June. My commission expires: 7/23/92



SEAL-STAMP

NORTH CAROLINA, County.

I, a Notary Public of the County and State aforesaid, certify that personally came before me this day and acknowledged that Secretary of a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by Secretary. Witness my hand and official stamp or seal, this day of 19..... My commission expires: Notary Public

The foregoing Certificate(s) of William H. Johnson, Notary Public.

UNOFFICIAL
 03410 P0421 05-24-2013 10:48:28.000
 Brunwick County, NC Register of Deeds page 1 of 3

This certifies that there are no delinquent ad valorem taxes, fees, assessments or other liens which the Brunswick County Tax Collector is charged with collecting, that are a lien on: Parcel Number 233NE033 as noted by the Brunswick County Assessor's Office. This is not a certification that the parcel number matches the deed description.
5-24-13
 Date (Asst) Tax Col. / Del. Tax Spec.

Register of Deeds
 Brunswick County, NC
 (8348873)
 NC REVENUE STAMP: \$1550.00

Pollock Pollock

Presenter _____ Fee 15
 Total 800.00 Rev 1550.00
 CK # 700 Cash \$ _____
 Finance _____
 Contains state verified by original instrument that cannot be reproduced.

NORTH CAROLINA GENERAL WARRANTY DEED

The attorney preparing this instrument has made no record search or title examination as to the property herein described, unless the same is shown by his written and signed certificate.

Excise Tax: \$1,550.00
 Parcel Identifier No. 233NE033 Verified by _____ County on the _____ day of _____, 20____
 By: _____

Mail/Box to: Pollock & Pollock, Attorneys at Law, PLLC, PO Drawer 999, Burgaw, NC 28425
 This instrument was prepared by: Pollock & Pollock, Attorneys at Law, PLLC, PO Drawer 999, Burgaw, NC 28425
 Brief description for the index:

THIS DEED made this 16th day of May, 2013, by and between _____ GRANTOR GRANTEE

Seth E. Barker
 and wife,
 Diane E. Barker
 305 Winchester Creek Road
 Grasonville, MD 21638

Mark A. Davenport
 300 Caroston Road
 Sanford, NC 27332

Enter in appropriate block for each party: name, address, and if appropriate, character of entity, e.g. corporation or partnership.
 This property _____ is or X is not the primary residence of the Grantor.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Oak Island, Smithville Township, Brunswick County, North Carolina and more particularly described as follows:

Being all that certain tract or parcel of land located in the Town of Oak Island, Smithville Township, Brunswick County, North Carolina and being more fully described on Exhibit A attached hereto.

The property hereinabove described was acquired by Grantor by instrument recorded in Book _____, page _____.

NC Bar Association Form No. 3 © 1976, Revised © 1977, 2002
 Printed by Agreement with the NC Bar Association - 1981 - Chicago Title Insurance Company

UNOFFICIAL

UNOFFICIAL

RECEIVED
 OCT 15 2014
 DCM-MHD CITY

RECEIVED
 DCM WILMINGTON, NC

SEP 24 2014

UNOFFICIAL

B3418 P8422 06-24-2013 10:48:30.830
Branda M. Clemens PRF
Brunswick County, NC Register of Deeds page 2 of 3

A map showing the above described property is recorded in Map Book , Page:

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

UNOFFICIAL

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

(Entity Name) Seth E. Barker (SEAL)

By: Seth E. Barker (SEAL)
Title: Diane E. Barker

By: Diane E. Barker (SEAL)
Title: _____

By: _____ (SEAL)
Title: _____



State of North Carolina - County of Brunswick
I, Vicki L. McHenry, Notary Public in the County and State aforesaid, certify that Seth E. Barker and Diane E. Barker personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 20th day of May, 2013.

My Commission Expires: 3/29/15
Notary Public Vicki L. McHenry

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UNOFFICIAL

UNOFFICIAL

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DCM WILMINGTON, NC

SEP 24 2014

In Brunswick County: All that certain tract or parcel of land situated in the Town of Oak Island, North Carolina, consisting of a portion of Lots 13 and 14, Block 135, and more particularly described as follows:

Beginning at a point where the Eastern line of a parcel now or formerly owned by Madry intersects with the line of vegetation fronting the Atlantic Ocean, said point being located the following courses and distance from the Northeast corner of Lot 13: South 86-24-00 West 68 feet, along and with the southern right of way line of West Beach Drive, to a common corner with the parcel now or formerly owned by Madry; thence South 00-55-32 East 60.36 feet, more or less, along and with the line of vegetation fronting the Atlantic Ocean. THENCE FROM SAID POINT OF BEGINNING, so located North 00-55-32 West 60.36 feet, more or less, along and with the eastern line of the parcel now or formerly owned by Madry, to the southern right of way line of West Beach Drive; thence North 86-24-00 East 68 feet, along and with the southern right of way line of West Beach Drive, to the northeast corner of Lot 13; thence South 03-36-00 East 66.57 feet, more or less, along and with the common boundary between Lot 13 and Lot 12 to the line of vegetation fronting the Atlantic Ocean, to the POINT OF BEGINNING.

Being a portion of Lots 13 and 14, Block 135, as more particularly shown on a plat of survey for Steve and Rose Marie Rennekamp prepared by Robert B. McHenry, Sr., Registered Land Surveyor, dated February 15, 1990 recorded as an attachment to deed recorded in Book 798 Page 105.

Together with all right, title and interest, if any, of the party of the first in and to any property lying between the line of vegetation fronting the Atlantic Ocean and the mean high water mark of the Atlantic Ocean, bounded on the East and West by the Eastern and Western lines of the subject property extended to the mean high water mark of the Atlantic Ocean.

Reference is made to the original plat of King's Lynn Subdivision recorded in Map Book 3 Page 113 to assist in locating the property.

Title is subject to an appurtenant easement recorded in Deed Book 1700, Page 303 granting a perpetual pedestrian access easement over the westernmost 8 feet of the tract in favor of Lot 18, Block 136R King's Lynn Subdivision.

RECEIVED

OCT 15 2014

DCM-MHD CITY

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DCM WILMINGTON, NC

SEP 24 2014

4/9/14

west of Campground @ 30th Pl. w.
Oscar Mascarenhas

Clear wetland elevation break
NHW slightly WW of what
was shown on plan - may want
to contact surveyor about
verifying actual NHW based on
elevation

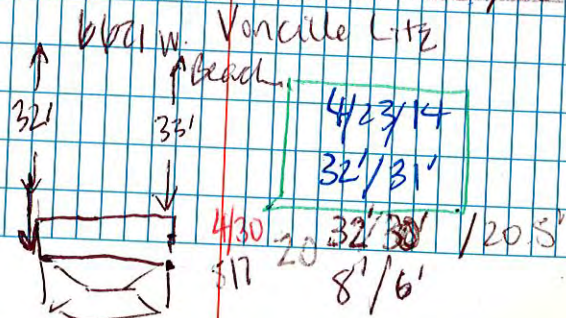
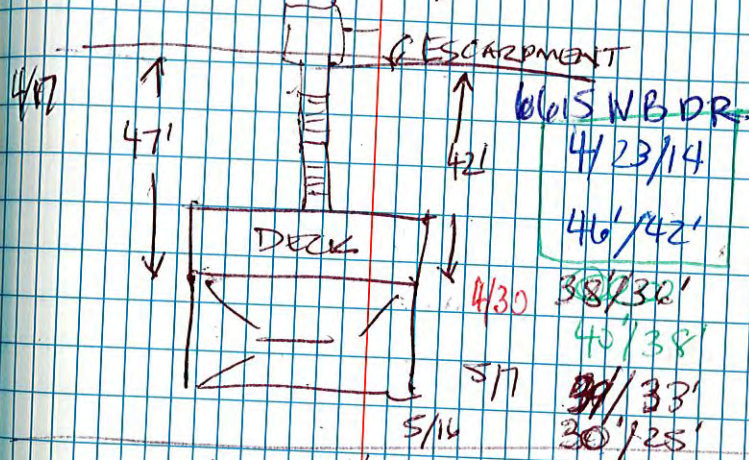
- channel looks to be straight
along shoreline - straight
riparian corridor
- pier would need to be elevated
a min of 8' above substrate, max ~~brink~~
dock/pier max 1/4 width of WB,
~~max~~ or to edge of channel
- max 2 slips under GP
- discussed 15' setbacks notificat.
valid for 12 months, permit valid
for 120 days

4/15/14 St James

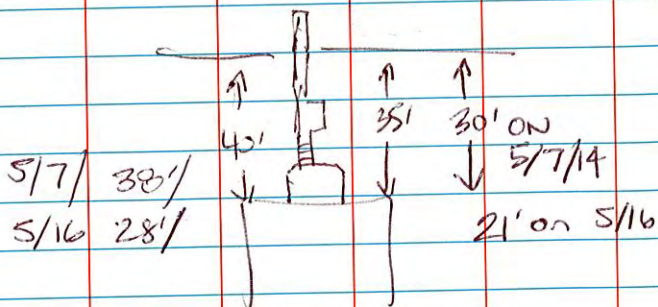
28' length - S'
5 bags deep - 2 high - 18"-24"

4-3-2-1 Config not allow.
Settlement @ top of reef - why
they want to stick w/2 high

6615 W. Beach Dr.
Brazz COLOB



6617 W. BEACH



5/5/14

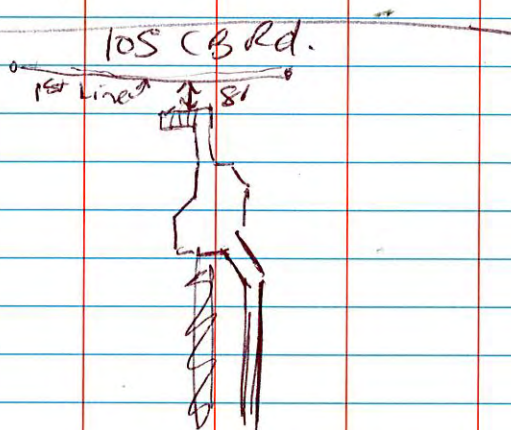
NEW INTERN 5/16

5/13/14

Leland - Appleton way

Want to remove house - may
leave foundation

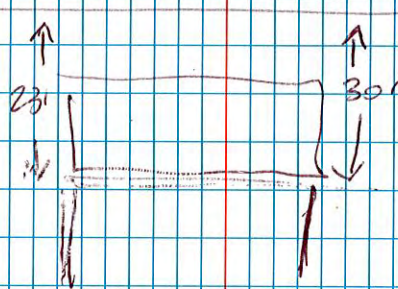
5/13/14



5/13/14

E. Bay St.

5/16/14 6623 W. Beach



Goebel, Christine

From: Golob, Barry <BGolob@cozen.com>
Sent: Sunday, November 09, 2014 7:01 PM
To: Goebel, Christine
Cc: Golob, Barry
Subject: Draft facts -- Golob edits
Attachments: Draft Facts to Pet Friday 11-7 _bpg edits.docx; 099997-000(2014-10-27 10-56-19).pdf

From: Coleman, Donna [<mailto:DColeman@ci.oak-island.nc.us>]
Sent: Monday, August 19, 2013 3:30 PM
To: Golob, Barry
Subject: 6615 W. Beach Dr. Oak Island

Barry,

So nice to speak with you on the phone this afternoon. As we discussed I went on the property at 6615 W. Beach Dr. to determine if the parcel was considered a buildable lot at this time. The measurement that I took was from the first line of natural stable vegetation to the house pile was approximately 68' feet. A survey would give the exact measurement. The CAMA setback for a house less than 5000 square feet is 60 feet. This is considered a buildable parcel at this time. Do keep in mind that the shoreline or vegetation could change as much as 325 feet in the event of a major storm. If you have any other questions I'll be happy to assist.

Sincerely,
Donna F. Coleman, CFM
CAMA-LPO / Building Inspector
Town of Oak Island
(910)201-8047

Notice: This communication, including attachments, may contain information that is confidential and protected by the attorney/client or other privileges. It constitutes non-public information intended to be conveyed only to the designated recipient(s). If the reader or recipient of this communication is not the intended recipient, an employee or agent of the intended recipient who is responsible for delivering it to the intended recipient, or you believe that you have received this communication in error, please notify the sender immediately by return e-mail and promptly delete this e-mail, including attachments without reading or saving them in any manner. The unauthorized use, dissemination, distribution, or reproduction of this e-mail, including attachments, is prohibited and may be unlawful. Receipt by anyone other than the intended recipient(s) is not a waiver of any attorney/client or other privilege.

CAMA / DREDGE & FILL
GENERAL PERMIT

Nº 63907-D

New Modification Complete Reissue Partial Reissue

Previous permit # _____

Date previous permit issued _____

As authorized by the State of North Carolina, Department of Environment and Natural Resources and the Coastal Resources Commission in an area of environmental concern pursuant to 15A NCAC

7H.1700

Applicant Name BARRY GOLOB
 Address 10820 HOB NAIL CT.
 City POTOMAC State MD ZIP 20845
 Phone # (301) 920-6655 Fax # bgoLOB@COZEN.com
 Authorized Agent DANIEL RUSS

Project Location: County BRUNSWICK
 Street Address/ State Road/ Lot #(s) 6615 W. BEACH
Dr. off SR 1104
 Subdivision _____
 City OAK ISLAND ZIP 28465
 Phone # (____) _____ River Basin Lumber
 Adj. Wtr. Body ATLANTIC OCEAN (nat/man/unkn)
 Closest Maj. Wtr. Body ATLANTIC OCEAN

Affected CW EW PTA ES PTS
 AEC(s): AQA HHF IH UBA N/A
 PWS: _____ FC: _____

ORW: yes no PNA yes no Crit.Hab. yes / no

Type of Project/ Activity EMERGENCY SANDBAGS TO PROTECT THREATENED STRUCTURE
DUE TO ACCELERATED EROSION

- Pier (dock) length _____
- Platform(s) _____
- Finger pier(s) _____
- Groin length number _____
- Bulkhead/ Riprap length avg distance offshore _____ max distance offshore _____
- Basin, channel cubic yards _____
- Boat ramp _____
- Boathouse/ Boatlift _____
- Beach Bulldozing _____
- Other SANDBAGS 50' x 20' x 6'
- Shoreline Length 50'
- SAV: not sure yes no
- Sandbags: not sure yes no
- Moratorium: n/a yes no
- Photos: yes no
- Waiver Attached: yes no

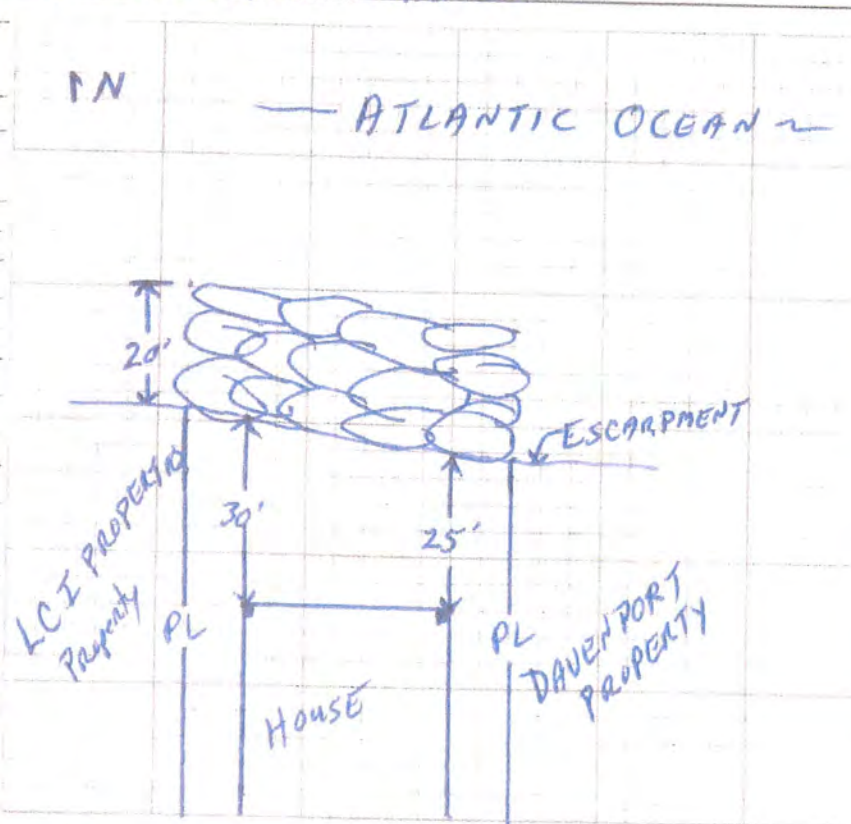


EXHIBIT
1

CROSS SECTION NTS
 6'
 20'

A building permit may be required by: OAK ISLAND

See note on back regarding River Basin rules.

Notes/ Special Conditions 1) FEDERAL AUTHORIZATION IS REQUIRED PRIOR TO UNDERTAKING WORK, PLEASE CONTACT RONNIE SMITH, USACE @ (910) 251-4829.

Daniel T Russ
 Agent or Applicant Printed Name
DTR
 Signature ** Please read compliance statement on back of permit **
\$400-
 Application Fee(s) #28943
 Check #

Debra W. Wilson
 Permit Officer's Signature
5/21/14
 Issuing Date 6/21/14
 Expiration Date
OAK ISLAND
 Local Planning Jurisdiction
 Rover File Name

NCAMA / DREDGE & FILL GENERAL PERMIT

Nº 63906-D

New Modification Complete Reissue Partial Reissue

Previous permit # _____
Date previous permit issued _____

As authorized by the State of North Carolina, Department of Environment and Natural Resources and the Coastal Resources Commission in an area of environmental concern pursuant to 15A NCAC _____

7H 1700

Applicant Name MARK DAVENPORT
Address 300 CARBANTON Rd.
City SANFORD State NC ZIP 27332
Phone # (919) 776-6688 Fax # _____

Project Location: County BRUNSWICK
Street Address: State Road: Lot # (s): 6617 W. BEACH DR off SR 1104
Subdivision _____
City OAK ISLAND ZIP 28445
Phone # _____ River Basin Lumber
Adj. Wtr. Body ATLANTIC OCEAN
Closest Maj. Wtr. Body ATLANTIC OCEAN

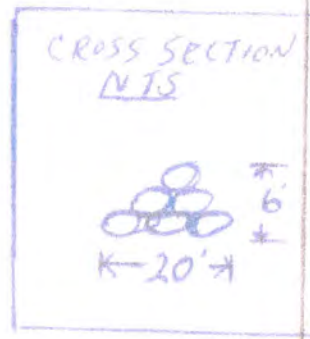
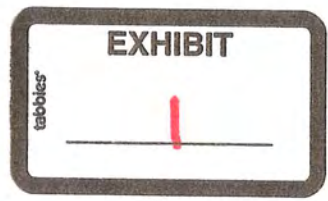
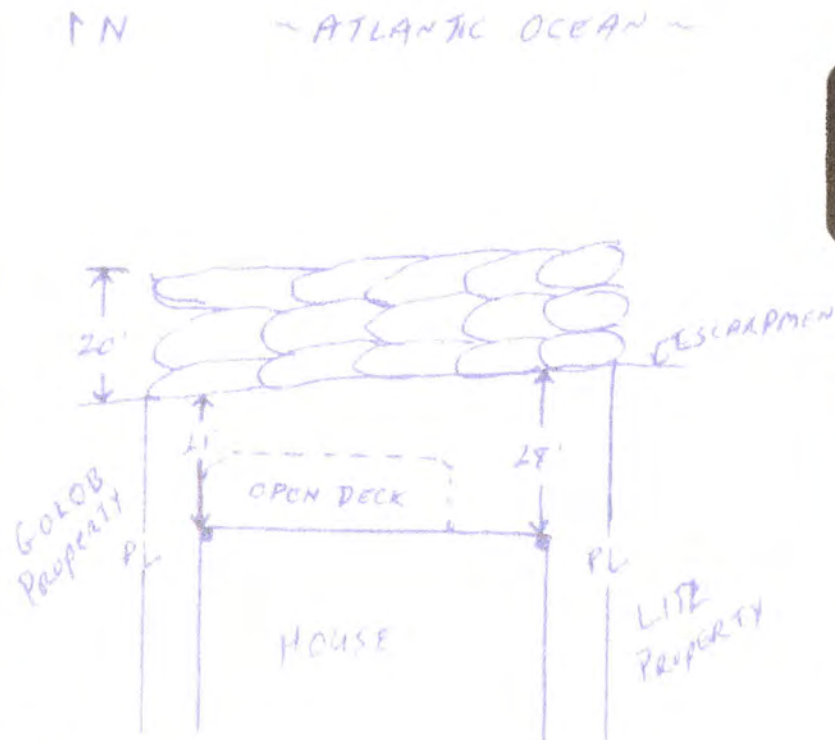
Authorized Agent: DANIEL RUES

Affected AECIS:	CW <input checked="" type="checkbox"/> XDEA	EW <input checked="" type="checkbox"/> MHF	PTA <input type="checkbox"/> IH	ES <input type="checkbox"/> UBA	PTS <input type="checkbox"/> N/A
	PWS _____	FC _____			

ORW: yes NO PNA yes NO Crit Hab. yes no

Type of Project Activity: EMERGENCY SANDBAGS TO PROTECT THREATENED STRUCTURE DUE TO ACCELERATED EROSION (Scale: 1"=30')

- Permit description:
- Plat number:
- Wing code:
- Color tag number:
- Block/Parcel numbers and related address city/parcel address:
- Date issued:
- Sub area:
- Block/Parcel number:
- Beach Building:
 - SANDBAGS 75' x 20' x 6'
- Shoreline length: 75'
- SAV: yes no
- Sandbags: yes no
- Minor structure: yes no
- Phosphor: yes no
- Watershed: yes no



Building permit required by: OAK ISLAND See how on back regarding River Basin rules.
Notes: Special Conditions: 1) FEDERAL AUTHORIZATION IS REQUIRED PRIOR TO UNDERTAKING WORK. PLEASE CALL RONNIE SMITH USACE @ (910) 257-4829

Agent of Applicant Printed Name: Daniel Rues
Signature: [Signature]
Fee: \$400
Check #: # 28942

Permit Officer's Signature: [Signature]
Issuing Date: 5/21/14
Expiration Date: 6/21/14
Local Planning Jurisdiction: OAK ISLAND
Agent Title: _____

CAMA / DREDGE & FILL
GENERAL PERMIT

Nº 63905-D

New Modification Complete Reissue Partial Reissue

Previous permit # _____
 Date previous permit issued _____

As authorized by the State of North Carolina, Department of Environment and Natural Resources and the Coastal Resources Commission in an area of environmental concern pursuant to 15A NCAC

7H.1700

Rules attached.

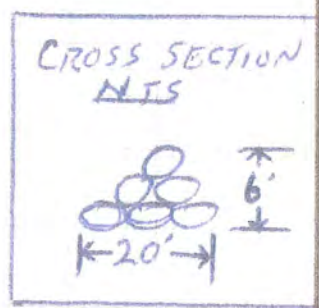
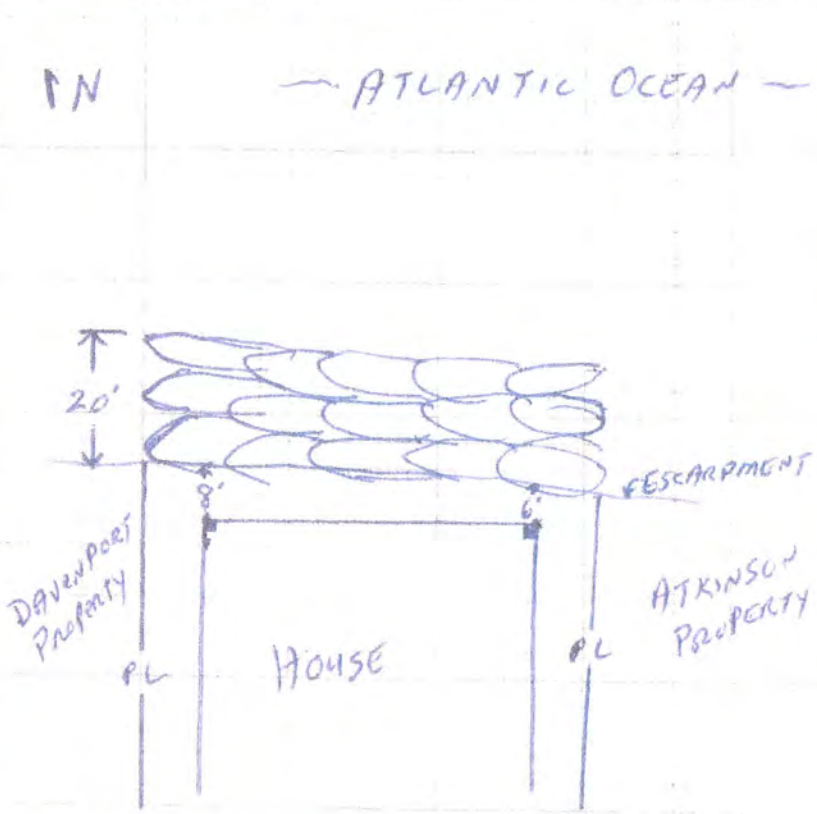
Applicant Name DAVID & VONCILLE LITZ
 Address 10924 SYCAMORE CLUB DR.
 City MINT HILL State NC ZIP 28227
 Phone # (704) 281-2848 Fax # () -
 Authorized Agent DANIEL RUSS

Project Location: County BRUNSWICK
 Street Address/ State Road/ Lot #(s) 6621 W. BEACH DR off SR 1104
 Subdivision _____
 City OAK ISLAND ZIP 28465
 Phone # () - River Basin Lumber
 Adj. Wtr. Body ATLANTIC OCEAN (Nat./man./unkn)
 Closest Maj. Wtr. Body ATLANTIC OCEAN

Affected CW EW PTA ES PTS
 AEC(s): COEA CHF IH UBA N/A
 PWS: _____ FC: _____
 ORW: yes / no PNA yes / no Crit.Hab. yes / no

Type of Project/ Activity EMERGENCY SANDBAGS TO PROTECT THREATENED STRUCTURE (Scale: 1"=30')

- Pier (dock) length _____
- Platform(s) _____
- Finger pier(s) _____
- Groin length number _____
- Bulkhead/ Riprap length avg distance offshore _____ max distance offshore _____
- Basin, channel cubic yards _____
- Boat ramp _____
- Boathouse/ Boatlift _____
- Beach Bulldozing _____
- Other SANDBAGS 70'x20'x6'
- Shoreline Length 70'±
- SAV: not sure yes no
- Sandbags: not sure yes no
- Moratorium: n/a yes no
- Photos: yes no
- Waiver Attached: yes no



A building permit may be required by: OAK ISLAND See note on back regarding River Basin rules.
 Notes/ Special Conditions 1) FEDERAL AUTHORIZATION IS REQUIRED PRIOR TO UNDERTAKING WORK, PLEASE CONTACT RONNIE SMITH, USACOE @ (910) 251-4829

Daniel T Russ
 Agent or Applicant Printed Name
[Signature]
 Signature ** Please read compliance statement on back of permit **
\$400- Application Fee(s) #28940 Check #

[Signature] Debra Wilson
 Permit Officer's Signature
5/21/14 Issuing Date 6/21/14 Expiration Date
OAK ISLAND Local Planning Jurisdiction

Rover File Name _____

CAMA / DREDGE & FILL
GENERAL PERMIT

Nº 63904-D

Previous permit # _____
 Date previous permit issued _____

As authorized by the State of North Carolina, Department of Environment and Natural Resources and the Coastal Resources Commission in an area of environmental concern pursuant to 15A NCAC 7H.1700

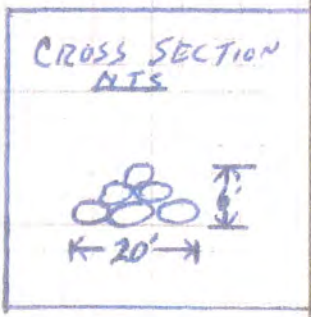
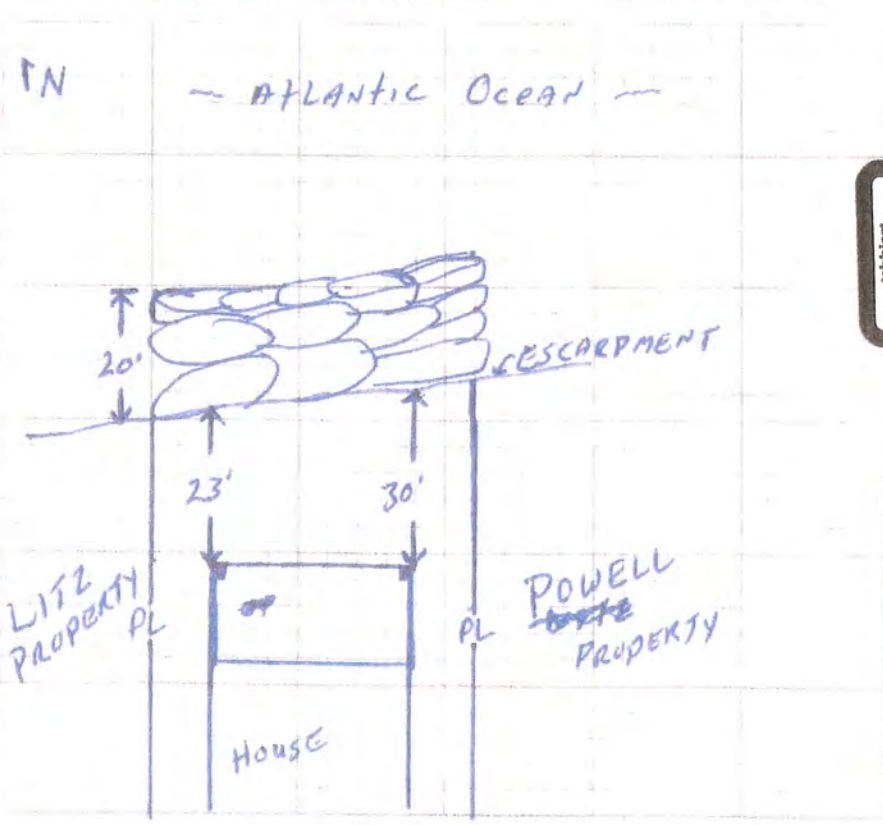
Applicant Name Christopher Atkinson
 Address 8811 Fidelis Lane
 City Raleigh State NC ZIP 27613
 Phone # (919) 426-4019 Fax # _____
 Authorized Agent Daniel Russ

Project Location: County BRUNSWICK
 Street Address/ State Road/ Lot #(s) 6623 W. BEACH
DR. OFF SR 1104
 Subdivision _____
 City OAK ISLAND ZIP 28465
 Phone # _____ River Basin Lumber
 Adj. Wtr. Body Atlantic Ocean (nat /man /unkn)
 Closest Maj. Wtr. Body Atlantic Ocean

Affected CW EW PTA ES PTS
 AEC(s): OEA HHF IH UBA N/A
 PWS: _____ FC: _____
 ORW: yes / no PNA yes / no Crit.Hab. yes / no

Type of Project/ Activity EMERGENCY SANDBAGS TO PROTECT THREATENED STRUCTURE
due to ACCELERATED EROSION (Scale: 1" = 30')

- Pier (dock) length _____
- Platform(s) _____
- Finger pier(s) _____
- Groin length number _____
- Bulkhead/ Riprap length avg distance offshore _____ max distance offshore _____
- Basin, channel cubic yards _____
- Boat ramp _____
- Boathouse/ Boatlift _____
- Beach Bulldozing _____
- Other SANDBAGS 50' x 20' x 6'
- Shoreline Length 50'
- SAV: not sure yes no
- Sandbags: not sure yes no
- Moratorium: n/a yes no
- Photos: yes no
- Waiver Attached: yes no



A building permit may be required by: OAK ISLAND See note on back regarding River Basin rules.
 Notes/ Special Conditions 1) Federal authorization is required prior to undertaking work, please contact Ronnie Smith, USACE @ (910) 251-4829.

Agent or Applicant Printed Name Daniel T Russ
 Signature [Signature] ** Please read compliance statement on back of permit **
 Application Fee(s) \$400 Check # #28941

Permit Officer's Signature [Signature] DEBRA WILSON
 Issuing Date 5/21/14 Expiration Date 6/21/14
 Local Planning Jurisdiction OAK ISLAND Rover File Name _____

**DIVISION OF COASTAL MANAGEMENT
FIELD INVESTIGATION REPORT**

1. **APPLICANT'S NAME:** Barry Golob, et al.
2. **LOCATION OF PROJECT SITE:** Project site is located at 6615-6623 W. Beach Drive, in Oak Island, Brunswick County.

Photo Index - 2006: 8-6161, W, 17-18 2000: 8-68, W, 18-19 1998: 4-61 S, 15-16
State Plane Coordinates - X: 2235472 **Y:** 60189 **Rover File:** None
Lat: 33°54'46.22"N **Long:** 78°13'26.44"W

3. **INVESTIGATION TYPE:** CAMA/Dredge & Fill
4. **INVESTIGATIVE PROCEDURE:** **Dates of Site Visit** – 4/17/14, 4/30, 5/7, 5/30, 6/18, 9/8, 9/23
Was Applicant Present - No
5. **PROCESSING PROCEDURE:** **Application Received** – Complete 7/30/14
Office - Wilmington
6. **SITE DESCRIPTION:**
 - (A) **Local Land Use Plan** – Yaupon Beach (Town of Oak Island)
Land Classification From LUP - Developed
 - (B) **AEC(s) Involved:** OH
 - (C) **Water Dependent:** Yes
 - (D) **Intended Use:** Private
 - (E) **Wastewater Treatment:** Existing - Municipal
Planned - N/A
 - (F) **Type of Structures:** Existing – Single-family residences, existing sandbags
Planned - Additional sandbags to protect threatened homes.
 - (G) **Estimated Rate of Erosion:** 2'/yr
Source – 2011 LTAASCR Update

7. **HABITAT DESCRIPTION:**

	<u>DREDGED</u>	<u>[AREA]</u> <u>FILLED</u>	<u>OTHER</u>
(A) Vegetated Wetlands §404 wetlands			
(B) Non-Vegetated Wetlands			
Other – High ground		~7,500 sq. ft.	

- (D) **Total Area Disturbed:** ~7,500 sq. ft. (0.17 acres)
- (E) **Primary Nursery Area:** No
- (F) **Water Classification:** SB Open: No

8. **PROJECT SUMMARY:** The applicant proposes to add additional sandbags to existing bags to protect the threatened residences.

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PROPOSED PROJECT:

The applicants are proposing to add additional sandbags on top and landward of the existing sandbags to increase the height and width of the revetment. They are proposing to maintain the height of the sandbag revetment to the existing elevations at the top of the erosion escarpment. This elevation ranges from 11.26' to 15.7' NAVD88 (see attached survey labeled Sheet 4 of 4). The bottom of the existing escarpment ranges from approximately 5.5' to 7.5' NAVD 88 at this time, which translates to a current elevation difference of approximately 6-8' from top to bottom. The applicants are additionally proposing a maximum 30' base width for the bags. The applicants are also proposing to truck in beach compatible sand from an upland source to cover the sandbags. Sand would not be placed waterward of the sandbags.

10. ANTICIPATED IMPACTS:

The project would result in impacts to 7,500 square feet of Public Trust Area- approximately 5,000 square foot which is currently occupied by existing sandbags.

Submitted by: Heather Coats

Date: September 24, 2014

Office: Wilmington

APPLICATION for Major Development Permit

(last revised 12/27/06)



North Carolina DIVISION OF COASTAL MANAGEMENT

1. Primary Applicant/ Landowner Information			
Business Name		Project Name (if applicable) Proposed Sandbag Project -- Oak Island, West Beach	
Applicant 1: First Name Barry	MI P	Last Name Golob	
Applicant 2: First Name See attached	MI	Last Name	
<i>If additional applicants, please attach an additional page(s) with names listed.</i>			
Mailing Address 10820 Hob Nail Court		PO Box	City Potomac
			State MD
ZIP 20854	Country Montgomery	Phone No. 301 - 920 - 6655 ext.	FAX No. 202 - 618 - 4843
Street Address (if different from above) 6615 West Beach Drive		City Oak Island	State NC
			ZIP 28465-
Email bgolob@cozen.com			

2. Agent/Contractor Information			
Business Name N/A			
Agent/ Contractor 1: First Name	MI	Last Name	
Agent/ Contractor 2: First Name	MI	Last Name	
Mailing Address		PO Box	City
			State
ZIP		Phone No. 1 - - ext.	Phone No. 2 - - ext.
FAX No.	Contractor #		
Street Address (if different from above)		City	State
			ZIP -
Email			

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3. Project Location				
County (can be multiple) Brunswick County NC		Street Address 6615, 6617, 6621, 6623 West Beach Drive		State Rd. #
Subdivision Name		City Oak Island	State NC	Zip 28465 -
Phone No. 301 - 920 - 6655 ext.		Lot No.(s) (if many, attach additional page with list)		
a. In which NC river basin is the project located? LUMBER RIVER		b. Name of body of water nearest to proposed project Atlantic Ocean		
c. Is the water body identified in (b) above, natural or manmade? <input checked="" type="checkbox"/> Natural <input type="checkbox"/> Manmade <input type="checkbox"/> Unknown		d. Name the closest major water body to the proposed project site. Atlantic Ocean		
e. Is proposed work within city limits or planning jurisdiction? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		f. If applicable, list the planning jurisdiction or city limit the proposed work falls within. Oak Island		

4. Site Description	
a. Total length of shoreline on the tract (ft.) 250 Feet	b. Size of entire tract (sq.ft.)
c. Size of individual lot(s) 5000, 7500, 7500, 5000 (If many lot sizes, please attach additional page with a list)	d. Approximate elevation of tract above NHW (normal high water) or NWL (normal water level) 9 ft <input checked="" type="checkbox"/> NHW or <input type="checkbox"/> NWL
e. Vegetation on tract Each tract has dune grasses including sea oats	
f. Man-made features and uses now on tract Single family residences	
g. Identify and describe the existing land uses <u>adjacent</u> to the proposed project site. Residential	
h. How does local government zone the tract? R7	i. Is the proposed project consistent with the applicable zoning? (Attach zoning compliance certificate, if applicable) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
j. Is the proposed activity part of an urban waterfront redevelopment proposal? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
k. Has a professional archaeological assessment been done for the tract? If yes, attach a copy. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA If yes, by whom?	
l. Is the proposed project located in a National Registered Historic District or does it involve a National Register listed or eligible property? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA	

<Form continues on next page>

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m. (i) Are there wetlands on the site?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
(ii) Are there coastal wetlands on the site?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
(iii) If yes to either (i) or (ii) above, has a delineation been conducted? (Attach documentation, if available)	<input type="checkbox"/> Yes <input type="checkbox"/> No
n. Describe existing wastewater treatment facilities. Municipal sewer	
o. Describe existing drinking water supply source. City water	
p. Describe existing storm water management or treatment systems. None	

5. Activities and Impacts	
a. Will the project be for commercial, public, or private use?	<input type="checkbox"/> Commercial <input type="checkbox"/> Public/Government <input checked="" type="checkbox"/> Private/Community
b. Give a brief description of purpose, use, and daily operations of the project when complete. Protect homes from beach erosion	
c. Describe the proposed construction methodology, types of construction equipment to be used during construction, the number of each type of equipment and where it is to be stored. Add sandbags to existing sandbag installation using standard equipment and practices	
d. List all development activities you propose. Adding additional rows of sandbags	
e. Are the proposed activities maintenance of an existing project, new work, or both?	New work
f. What is the approximate total disturbed land area resulting from the proposed project?	7500 <input checked="" type="checkbox"/> Sq.Ft or <input type="checkbox"/> Acres
g. Will the proposed project encroach on any public easement, public accessway or other area that the public has established use of?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA
h. Describe location and type of existing and proposed discharges to waters of the state. N/A	
i. Will wastewater or stormwater be discharged into a wetland?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA
If yes, will this discharged water be of the same salinity as the receiving water?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
j. Is there any mitigation proposed? If yes, attach a mitigation proposal.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA

<Form continues on back>

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6. Additional Information

In addition to this completed application form, (MP-1) the following items below, if applicable, must be submitted in order for the application package to be complete. Items (a) – (f) are always applicable to any major development application. Please consult the application instruction booklet on how to properly prepare the required items below.

- a. A project narrative.
- b. An accurate, dated work plat (including plan view and cross-sectional drawings) drawn to scale. Please give the present status of the proposed project. Is any portion already complete? If previously authorized work, clearly indicate on maps, plats, drawings to distinguish between work completed and proposed.
- c. A site or location map that is sufficiently detailed to guide agency personnel unfamiliar with the area to the site.
- d. A copy of the deed (with state application only) or other instrument under which the applicant claims title to the affected properties.
- e. The appropriate application fee. Check or money order made payable to DENR.
- f. A list of the names and complete addresses of the adjacent waterfront (riparian) landowners and signed return receipts as proof that such owners have received a copy of the application and plats by certified mail. Such landowners must be advised that they have 30 days in which to submit comments on the proposed project to the Division of Coastal Management.

Name Cathy Lovejoy	Phone No. 336.558.9598
Address 6613 West Beach Dr., Oak Island, NC	
Name Jefferson and Sarah Powell	Phone No.
Address 321 E Street, NE, Washington DC 20002	
Name	Phone No.
Address	
- g. A list of previous state or federal permits issued for work on the project tract. Include permit numbers, permittee, and issuing dates.

Golob General Permit No. 63907, dated 5/21/14	Litz General Permit No. 63905, dated 5/21/14
Davenport General Permit No. 63906, dated 5/21/14	Atkinson General Permit No. 63904, dated 5/21/14
- h. Signed consultant or agent authorization form, if applicable.
- i. Wetland delineation, if necessary.
- j. A signed AEC hazard notice for projects in oceanfront and inlet areas. (Must be signed by property owner)
- k. A statement of compliance with the N.C. Environmental Policy Act (N.C.G.S. 113A 1-10), if necessary. If the project involves expenditure of public funds or use of public lands, attach a statement documenting compliance with the North Carolina Environmental Policy Act.

7. Certification and Permission to Enter on Land

I understand that any permit issued in response to this application will allow only the development described in the application. The project will be subject to the conditions and restrictions contained in the permit.

I certify that I am authorized to grant, and do in fact grant permission to representatives of state and federal review agencies to enter on the aforementioned lands in connection with evaluating information related to this permit application and follow-up monitoring of the project.

I further certify that the information provided in this application is truthful to the best of my knowledge.

Date September 16, 2014 _____

Print Name Barry Golob

Signature

Please indicate application attachments pertaining to your proposed project.

- DCM MP-2 Excavation and Fill Information
- DCM MP-3 Upland Development
- DCM MP-4 Structures Information
- DCM MP-5 Bridges and Culverts

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Form 1000 (Rev. 2/03)

EXCAVATION PERMIT

ADDITIONAL APPLICANTS FOR MAJOR PERMIT FOR PROPOSED SANDBAG PROJECT – OAK ISLAND, WEST BEACH

Mark Davenport
6617 West Beach Drive
Oak Island, NC 28465
919.708.8814
markdavenport@windstream.net

David and Voncille Litz
6621 West Beach Drive
Oak Island, NC 28465
704.281.2848
Voncille1@gmail.com

Christopher Atkinson
6623 West Beach Drive
Oak Island, NC 28465
919.426.4896
Christoph34@gmail.com

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EXCAVATION and FILL

(Except for bridges and culverts)

Attach this form to Joint Application for CAMA Major Permit, Form DCM MP-1. Be sure to complete all other sections of the Joint Application that relate to this proposed project. Please include all supplemental information.

Describe below the purpose of proposed excavation and/or fill activities. All values should be given in feet.

	Access Channel (NLW or NWL)	Canal	Boat Basin	Boat Ramp	Rock Groin	Rock Breakwater	Other (excluding shoreline stabilization)
Length							
Width							
Avg. Existing Depth					NA	NA	
Final Project Depth					NA	NA	

1. EXCAVATION

This section not applicable

- a. Amount of material to be excavated from below NHW or NWL in cubic yards. _____
- b. Type of material to be excavated. _____
- c. (i) Does the area to be excavated include coastal wetlands/marsh (CW), submerged aquatic vegetation (SAV), shell bottom (SB), or other wetlands (WL)? If any boxes are checked, provide the number of square feet affected.
 CW _____ SAV _____ SB _____
 WL _____ None _____
- d. High-ground excavation in cubic yards. _____
- (ii) Describe the purpose of the excavation in these areas:

2. DISPOSAL OF EXCAVATED MATERIAL

This section not applicable

- a. Location of disposal area. _____
- b. Dimensions of disposal area. _____
- c. (i) Do you claim title to disposal area?
 Yes No NA
- d. (i) Will a disposal area be available for future maintenance?
 Yes No NA
- (ii) If no, attach a letter granting permission from the owner. _____
- (ii) If yes, where? _____
- e. (i) Does the disposal area include any coastal wetlands/marsh (CW), submerged aquatic vegetation (SAV), shell bottom (SB), or other wetlands (WL)? If any boxes are checked, provide the number of square feet affected.
 CW _____ SAV _____ SB _____
 WL _____ None _____
- f. (i) Does the disposal include any area in the water?
 Yes No NA
- (ii) Describe the purpose of disposal in these areas:

- (ii) If yes, how much water area is affected? _____

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3. SHORELINE STABILIZATION

(If development is a wood groin, use MP-4 – Structures)

This section not applicable

- a. Type of shoreline stabilization:
 Bulkhead Riprap Breakwater/Sill Other: _____
- b. Length: 250 ft
 Width: 30 ft
- c. Average distance waterward of NHW or NWL: 0
- d. Maximum distance waterward of NHW or NWL: 0
- e. Type of stabilization material:
Sandbags
- f. (i) Has there been shoreline erosion during preceding 12 months?
 Yes No NA
 (ii) If yes, state amount of erosion and source of erosion amount information.
From approx 40-60 ft of dune erosion per property based on observation.
- g. Number of square feet of fill to be placed below water level.
 Bulkhead backfill 0 Riprap 0
 Breakwater/Sill 0 Other _____
- h. Type of fill material.
Sand
- i. Source of fill material.
Beach -- inter tidal zone

4. OTHER FILL ACTIVITIES

(Excluding Shoreline Stabilization)

This section not applicable

- a. (i) Will fill material be brought to the site? Yes No NA
 If yes,
 (ii) Amount of material to be placed in the water 0
 (iii) Dimensions of fill area 250 ft x 30 ft
 (iv) Purpose of fill
Cover sandbags
- b. (i) Will fill material be placed in coastal wetlands/marsh (CW), submerged aquatic vegetation (SAV), shell bottom (SB), or other wetlands (WL)? If any boxes are checked, provide the number of square feet affected.
 CW _____ SAV _____ SB _____
 WL _____ None
 (ii) Describe the purpose of the fill in these areas:
n/a

5. GENERAL

- a. How will excavated or fill material be kept on site and erosion controlled?
n/a
- b. What type of construction equipment will be used (e.g., dragline, backhoe, or hydraulic dredge)?

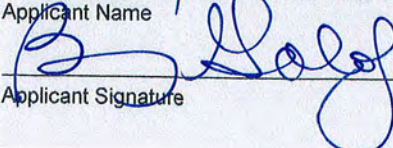
- c. (i) Will navigational aids be required as a result of the project?
 Yes No NA
 (ii) If yes, explain what type and how they will be implemented.

- d. (i) Will wetlands be crossed in transporting equipment to project site? Yes No NA
 (ii) If yes, explain steps that will be taken to avoid or minimize environmental impacts.

OCT 15 2014

DCM-MHD CITY

Sept 16, 2014
 Date
Proposed Sandbag Project -- Oak Island, West Beach
 Project Name

BARRY GOLDB
 Applicant Name

 Applicant Signature

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ATTACHMENT 6A

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[Handwritten signatures and stamps]

NARRATIVE PURSUANT TO SECTION 6A OF MAJOR PERMIT FOR PROPOSED SANDBAG PROJECT – OAK ISLAND, WEST BEACH

The homeowners applying for this major permit have experienced significant shoreline erosion of about 40-60 feet since January 2014. We installed sandbags under a CAMA general permit in May 2014. The original height of the sandbags was six feet, but due to settlement and shifting, the height of the sandbags above grade is much less at the present time. The present sandbags are not sufficient to arrest the continued erosion.

The homeowners are proposing to install additional rows of sandbags on top of and behind the existing sandbags in order to protect their homes from water damage. The resulting sandbags will be greater than 20 feet wide per the drawing, and up to 30 feet wide depending on the ensuing dune erosion and bag shifting. We are additionally requesting to be able to maintain those sandbags at an elevation equal to the height of the escarpment, which ranges from 11-15 feet as shown on the attached survey. We will also backfill with sand in order to cover the sandbags. Sand will come from an upland source that has already been approved by field staff.

The escarpment is presently more than five (5) feet above the sandbags due to the settlement and shifting of the bags. The settled sandbags, at high tide, as shown in the picture below, do not protect the dune from the intense wave action. Thus, without additional rows of sandbags the dune will continue to erode and our homes face imminent danger.

As shown in the pictures attached hereto on the next page, the erosion has now encroached on the foundation pilings resulting in an emergency situation. In fact, on September 17, 2014, the high tide was at 4.1 feet and nevertheless several feet of dune was eroded despite the sandbag installation from May because only one level of sandbag remains exposed for protection.



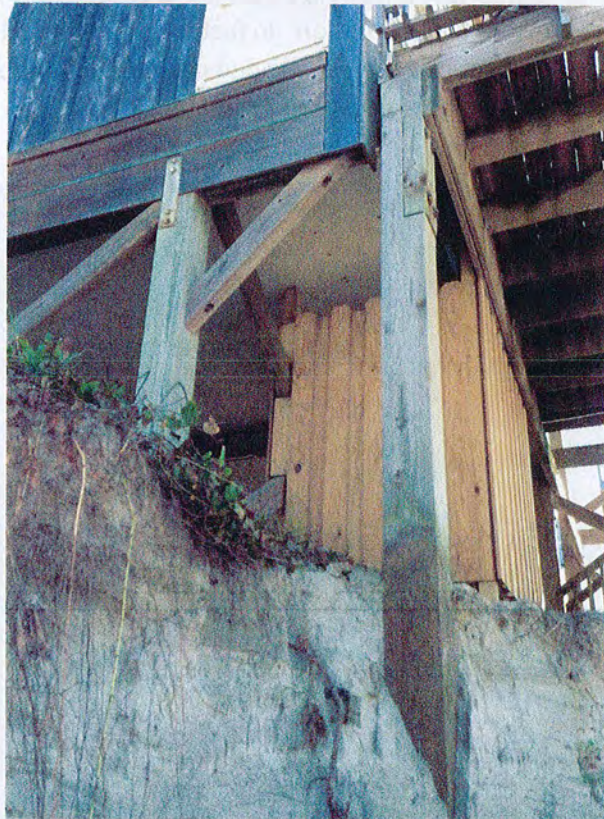
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ATTACHMENT 6 B & C

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NC

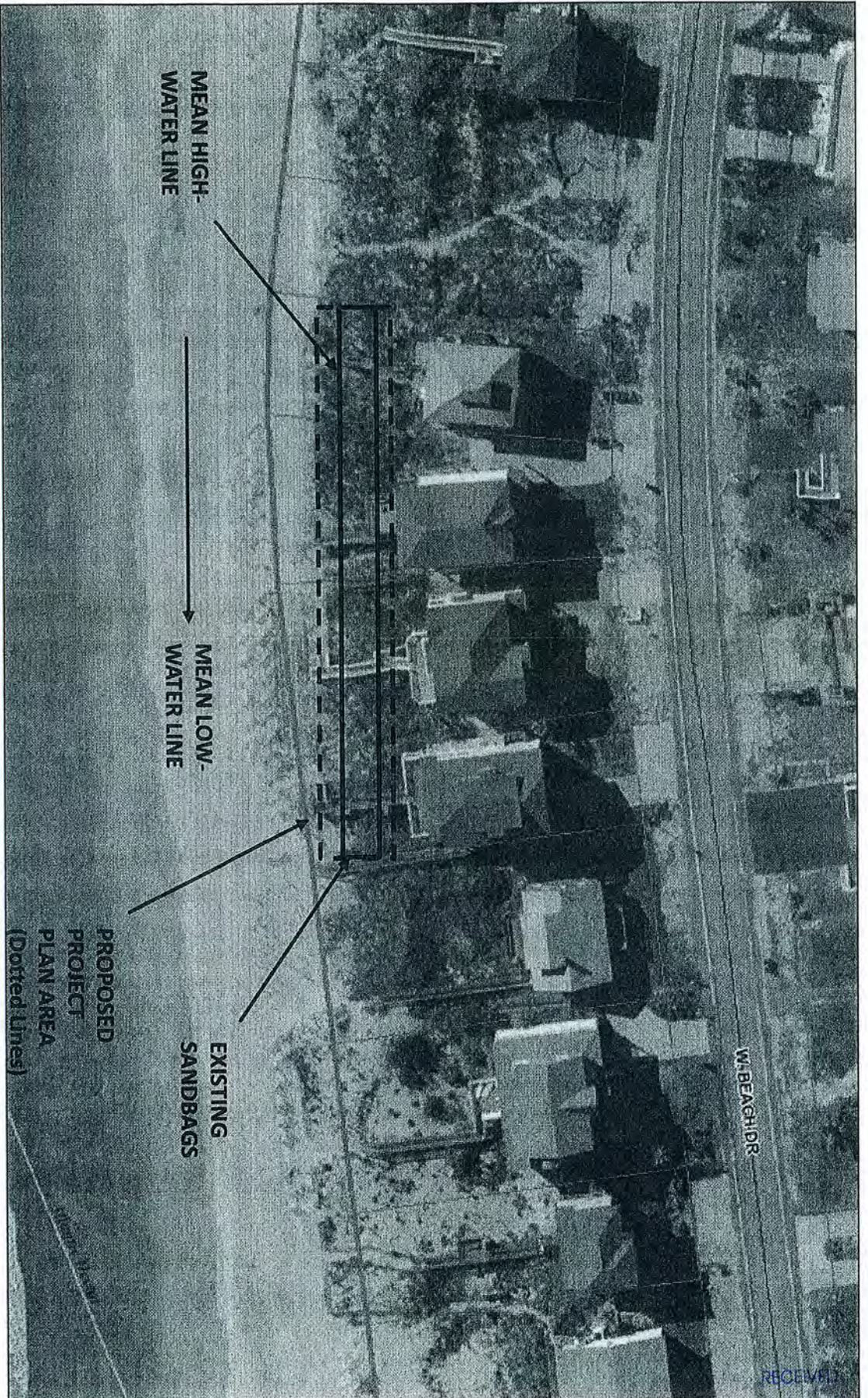
SEP 24 2014

PROPOSED SANDBAG PLAN – WEST BEACH
 Vicinity/Location Map



* 2012 IMAGERY

9/12/14
Sheet 1 of 4



PROPOSED SANDBAG PLAN – WEST BEACH

September 10, 2014
1" = 60 FEET

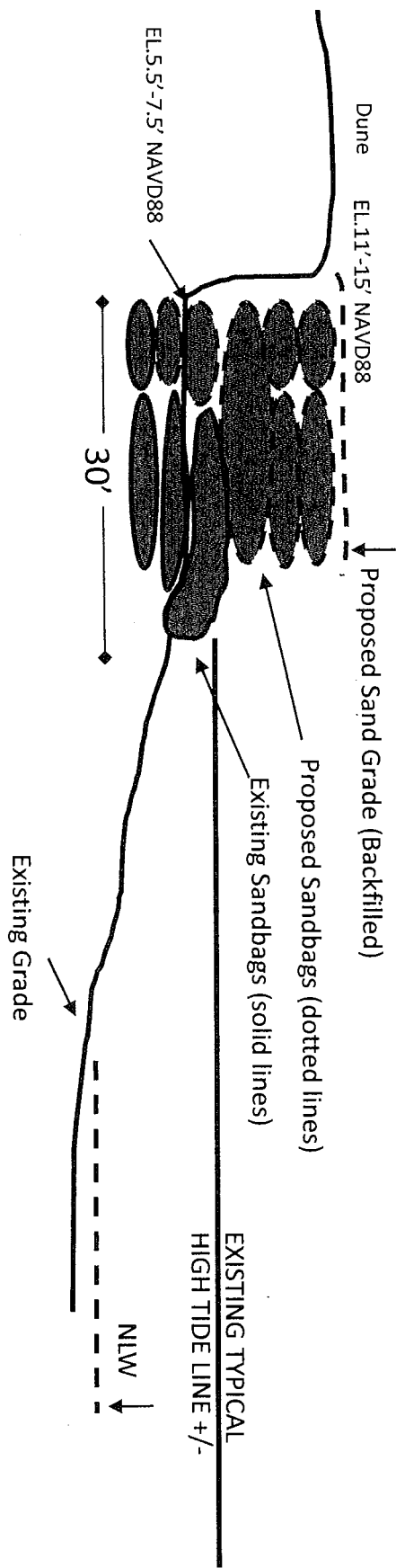


* 2012 IMAGERY

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9/12/14
Sheet 2 of 4



PROPOSED ADDITIONAL SANDBAGS – WEST BEACH

Scale
Vertical 1" = 6'
Horizontal 1" = 15'

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9/12/14
Sheet 3 of 4

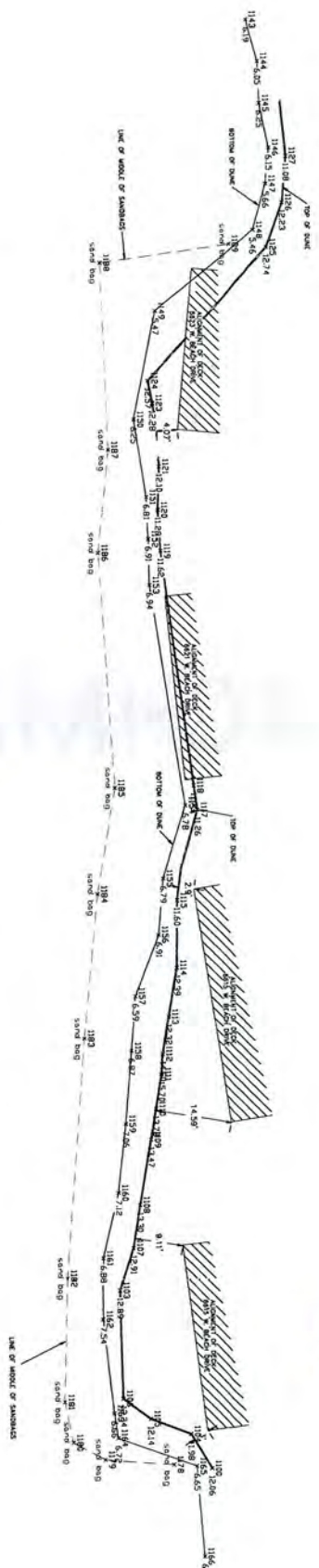


PLAT SCALE: 1" = 10'
0' 10' 20' 30'

SPOT ELEVATIONS TAKEN FROM 6615 W. BEACH DR. TO 6623 W. BEACH DR.
ALONG THE ATLANTIC OCEAN TO EXISTING LINE OF DECKS

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PROFESSIONAL LAND SURVEYOR - 17393
NORTH CAROLINA
RESIDENCE COUNTY
1. LUTHAUS M. DUNCAN, I. CERTIFY THAT I AM THE SURVEYOR OF RECORD FOR THE FOREGOING SURVEY AND THAT I AM A MEMBER IN GOOD STANDING OF THE NORTH CAROLINA BOARD OF SURVEYING AND MAPPING. I HAVE REVIEWED THE SURVEYING RECORD AND THE PLAT HEREON AND I CERTIFY THAT THE SURVEYING RECORD AND THE PLAT HEREON ACCURATELY REPRESENT THE SURVEYING WORK PERFORMED BY ME OR UNDER MY SUPERVISION AND IN ACCORDANCE WITH THE REQUIREMENTS OF THE NORTH CAROLINA BOARD OF SURVEYING AND MAPPING. I HAVE REVIEWED THE SURVEYING RECORD AND THE PLAT HEREON AND I CERTIFY THAT THE SURVEYING RECORD AND THE PLAT HEREON ACCURATELY REPRESENT THE SURVEYING WORK PERFORMED BY ME OR UNDER MY SUPERVISION AND IN ACCORDANCE WITH THE REQUIREMENTS OF THE NORTH CAROLINA BOARD OF SURVEYING AND MAPPING.



SPOT ELEVATIONS TAKEN FROM 6615 W. BEACH DR. TO 6623 W. BEACH DR. ALONG THE ATLANTIC OCEAN TO EXISTING LINE OF DECKS

1142.831	1144.820	1145.825	1146.830	1147.835	1148.840	1149.845	1150.850	1151.855	1152.860	1153.865	1154.870	1155.875	1156.880	1157.885	1158.890	1159.895	1160.900	1161.905	1162.910	1163.915	1164.920	1165.925	1166.930	1167.935	1168.940	1169.945	1170.950	1171.955	1172.960	1173.965	1174.970	1175.975	1176.980	1177.985	1178.990	1179.995	1180.000
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Surveyed and Mapped By
Tide Water
Land Surveying

802 North Howe Street
P.O. Box 11506
Southport, North Carolina 28461
Phone: 910-437-9580

9/12/14
Sheet 4 of 4

SEP 24 2014



North Carolina Department of Environment and Natural Resources

Division of Coastal Management

Braxton C. Davis

Director

Pat McCrory
Governor

John E. Skvarla, III
Secretary

AGENT AUTHORIZATION FORM

Date: 9.11.14

Name of Property Owner Applying for Permit:

CHRISTOPHER ATKINSON

Name of Authorized Agent for this project:

BARRY GOLOB

Owner's Mailing Address:

6623 W BEACH DR.
OAK ISLAND, NC
28465

Agent's Mailing Address:

10820 HOB NAIL CT
POTOMAC MD 20854

Email: christoph34@gmail.com

Phone (919) 426 4896

Email: bgolob@cozen.com

Phone 301 920.6655

I certify that I have authorized the agent listed above to act on my behalf, for the purpose of applying for, and obtaining all CAMA Permits necessary to install or construct the following (activity):

SANDBAGS TO PROTECT HOME/DECK/DUNN FROM FURTHER
EROSION.

For my property located at 6623 W BEACH DR., OAK ISLAND, 28465

This certification is valid 1 year from (date) 9.11.14

Property Owner Signature

9.11.14

Date

127 Cardinal Drive Ext., Wilmington, NC 28405
Phone: 910-798-7215 | FAX: 910-395-3964 | Internet: www.ncccoastalmanagement.net

An Equal Opportunity / Affirmative Action Employer

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SEP 24 2014



North Carolina Department of Environment and Natural Resources

Division of Coastal Management

Braxton C. Davis

Director

Pat McCrory
Governor

John E. Skvarla III
Secretary

AGENT AUTHORIZATION FORM

Date: 9/16/14

Name of Property Owner Applying for Permit:

Mark Davenport

Name of Authorized Agent for this project:

Barry Golob

Owner's Mailing Address:

300 Carleton Rd.
Stanford NC 27330

Agent's Mailing Address:

10820 Hob Nail Ct
Potomac MD 20854

Email: markdavenport@windstream.net

Phone 919.708.8814

Email: bgolob@cozen.com

Phone (301) 920.6655

I certify that I have authorized the agent listed above to act on my behalf, for the purpose of applying for, and obtaining all CAMA Permits necessary to install or construct the following (activity):

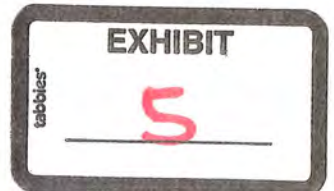
Javel bags

For my property located at 6617 West Beach Dr.
Oak Island NC

This certification is valid 1 year from (date) 9/16/2014

[Signature]
Property Owner Signature

9/16/2014
Date



North Carolina Department of Environment and Natural Resources
Division of Coastal Management
Braxton C. Davis
Director

Pat McCrory
Governor

John E. Skvarla III
Secretary

AGENT AUTHORIZATION FORM

Date: 9/11/14

Name of Property Owner Applying for Permit:

DAVID AND KENCILLE LITZ

Name of Authorized Agent for this project:

BARRY GOLOB

Owner's Mailing Address:

10924 Sycamore Club Dr
MINT HILL NC
28227

Agent's Mailing Address:

10820 HOB NAIL CT
POTOMAC, MD 20854

Email: Kencille1@gmail.com

Email: bgglob@cozen.com

Phone 704 719 1770

Phone 301 920 6655

Cell 704 281 2848

I certify that I have authorized the agent listed above to act on my behalf, for the purpose of applying for, and obtaining all CAMA Permits necessary to install or construct the following (activity):

Install Sandbags

For my property located at 6621 W. Beach Rd
CAROL ISLAND NC 28465

This certification is valid 1 year from (date) 9/11/14

David C. Litz
Property Owner Signature 9/11/14
Date



OCEAN HAZARD AEC NOTICE

Project is in an: Ocean Erodible Area High Hazard Flood Area Inlet Hazard Area

Property Owner: BRIAN I. COATS

Property Address: 601 S. West Beach Drive, Oak Island, NC 28451

Date Lot Was Platted: _____

This notice is intended to make you, the applicant, aware of the special risks and conditions associated with development in this area, which is subject to natural hazards such as storms, erosion and currents. The rules of the Coastal Resources Commission require that you receive an AEC Hazard Notice and acknowledge that notice in writing before a permit for development can be issued.

The Commission's rules on building standards, oceanfront setbacks and dune alterations are designed to minimize, but not eliminate, property loss from hazards. By granting permits, the Coastal Resources Commission does not guarantee the safety of the development and assumes no liability for future damages to the development. Permits issued in the Ocean Hazard Area of Environmental Concern include the condition that structures be relocated or dismantled if they become imminently threatened by changes in shoreline configuration. The structure(s) must be relocated or dismantled within two (2) years of becoming imminently threatened, and in any case upon its collapse or subsidence.

The best available information, as accepted by the Coastal Resources Commission, indicates that the annual long-term average ocean erosion rate for the area where your property is located is 2 feet per year.

The rate was established by careful analysis of aerial photographs of the coastline taken over the past 50 years.

Studies also indicate that the shoreline could move as much as 325 feet landward in a major storm.

The flood waters in a major storm are predicted to be about 20 feet deep in this area.

Preferred oceanfront protection measures are beach nourishment and relocation of threatened structures. Hard erosion control structures such as bulkheads, seawalls, revetments, groins, jetties and breakwaters are prohibited. Temporary sand bags may be authorized under certain conditions.

The applicant must acknowledge this information and requirements by signing this notice in the space below. Without the proper signature, the application will not be complete.

SPECIAL NOTE: This hazard notice is required for development in areas subject to sudden and massive storms and erosion. Permits issued for development in this area expire on December 31 of the third year following the year in which the permit was issued. Shortly before work begins on the project site, the Local Permit Officer must be contacted to determine the vegetation line and setback distance at your site. If the property has seen little change since the time of permit issuance, and the proposed development can still meet the setback requirement, the LPO will inform you that you may begin work. Substantial progress on the project must be made within 60 days of this setback determination, or the setback must be re-measured. Also, the occurrence of a major shoreline change as the result of a storm within the 60-day period will necessitate re-measurement of the setback. It is important that you check with the LPO before the permit expires for official approval to continue the work after the permit has expired. Generally, if foundation pilings have been placed and substantial progress is continuing, permit renewal can be authorized. It is unlawful to continue work after permit expiration.

For more information, contact:

Heather Coats

Environmental Officer, Field Rep for Oak Island

127 Cardinal Dr. East

Address

Wilmington, NC 28405

Locality

910-746-7124

Phone Number

Property Owner Signature

Date

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DCM WILMINGTON, NC

SEP 24 2014

Revised May 2010

OCEAN HAZARD AEC NOTICE

Project is in an: Ocean Erodlble Area High Hazard Flood Area Inlet Hazard Area

Property Owner: MARK DAVENPORT

Property Address: 6617 W. Beach Dr. Oak Island NC

Date Notice Was Mailed: _____

This notice is intended to make you, the applicant, aware of the special risks and conditions associated with development in this area, which is subject to natural hazards such as storms, erosion and hurricanes. The files of the Coastal Resources Commission indicate that you receive an AEC Hazard Notice and acknowledge that notice in writing before a permit for development can be issued.

The Commission's rules on building standards, oceanfront setbacks and other limitations are designed to minimize, but not eliminate, property loss from hazards. By granting permits, the Coastal Resources Commission does not guarantee the safety of the development and assumes no liability for future damage to the development. Permits issued in the Ocean Hazard Area of Environmental Concern include the condition that structures be relocated or demolished if they become imminently threatened by changes in shoreline configuration. The structure(s) must be relocated or demolished within two (2) years of becoming imminently threatened, and in any case upon its collapse or destruction.

The best available information, as accepted by the Coastal Resources Commission, indicates that the annual long-term average ocean erosion rate for the area where your property is located is 2 feet per year.

The rate was established by careful analysis of aerial photographs of the coastline taken over the past 50 years.

Studies also indicate that the shoreline could move as much as 225 feet landward in a major storm.

The flood waters in a major storm are predicted to be about 10 feet deep in this area.

Preferred oceanfront protection measures are beach nourishment and relocation of threatened structures. Hard erosion control structures such as bulkheads, seawalls, revetments, groins, jetties and breakwaters are prohibited. Temporary sand bags may be authorized under certain conditions.

The applicant must acknowledge this information and requirements by signing this notice in the space below. Without the proper signature, the application will not be complete.

Mark Davenport 9/16/14
Property Owner Signature Date

SPECIAL NOTE: This hazard notice is required for development in areas subject to sudden and massive storms and erosion. Permits issued for development in this area expire on December 31 of the third year following the year in which the permit was issued. Shortly before work begins on the project site, the Local Permit Officer must be contacted to determine the vegetation line and setback distance at your site. If the property has seen little change since the time of permit issuance, and the proposed development can still meet the setback requirement, the LPO will inform you that you may begin work. Substantial progress on the project must be made within 60 days of this setback determination, or the setback must be remeasured. Also, the occurrence of a major shoreline change as the result of a storm within the 60-day period will necessitate remeasurement of the setback. It is important that you check with the LPO before the permit expires for official approval to continue the work after the permit has expired. Generally, if foundation pilings have been placed and substantial progress is continuing, permit renewal can be authorized. It is unlawful to continue work after permit expiration.

For more information, contact:

Heather Coats

~~Field Rep for Oak Island~~ Field Rep for Oak Island

127 Cardinal Dr. Ext.

Address

Wilmington, NC 28405

Locality

910-796-7424

Phone Number

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SEP 24 2014

Revised Mar 2010

OCEAN HAZARD AEC NOTICE

Project is in an Ocean Erodeable Area High Hazard Flood Area Inlet Hazard Area

Property Owner: DAVID D E LITZ & VONVILLE LITZ

Property Address: 6021 B BEACH DR OAK ISLAND NC

Date Lbr Was Planted: _____

This notice is intended to make you the applicant aware of the special risks and conditions associated with development in this area, which is subject to natural hazards such as storms, erosion and currents. The rules of the Coastal Resources Commission require that you receive an Ocean Hazard Notice and acknowledge that notice in writing before a permit for development can be issued.

The Commission's rules on building setbacks, oceanfront setbacks and dune setbacks are designed to minimize, but not eliminate, property loss from hazards. By granting permits, the Coastal Resources Commission does not guarantee the safety of the development and is not liable for future damage to the development. Permits issued in the Ocean Hazard Area of Environmental Concern include the condition that structures be relocated or dismantled if they become immediately threatened by changes in shoreline configuration. The structure(s) must be relocated or dismantled within two (2) years of becoming immediately threatened and in any case upon its collapse or subsidence.

The best available information has accepted by the Coastal Resources Commission indicates that the annual long-term average ocean erosion rate for the area where your property is located is 2 feet per year.

The rate was established by careful analysis of aerial photographs of the shoreline taken over the past 50 years.

Studies also indicate that the shoreline could move as much as 35 feet landward in a major storm.

The flood water in a major storm is predicted to be about 10 feet deep in this area.

Preferred oceanfront protection measures are beach nourishment and relocation of threatened structures. Hard erosion control structures such as bulkheads, sea walls, revetments, groins, jetties and breakwaters are prohibited. Temporary sand bags may be authorized under certain conditions.

The applicant must acknowledge this information and requirements by signing this notice in the space below. Without the proper signature, this application will not be complete.

SPECIAL NOTE: This hazard notice is required for development in areas subject to sudden and massive storm and erosion. Permits issued for development in this area expire on December 31 of the third year following the year in which the permit was issued. Shortly before work begins on the project, the Local Permit Office must be contacted to determine the vegetation line and setback distance at your site. If the property has seen little change since the time of permit issuance, and the proposed development can still meet the setback requirements, the LPO will inform you that you may begin work. Substantial progress on the project must be made within 60 days of this setback determination or the setback must be re-measured. Also, the occurrence of a major shoreline change as the result of a storm within the 60-day period will necessitate re-measurement of the setback. It is important that you check with the LPO before the permit expires for official approval to continue the work after the permit has expired. Generally, if foundation pilings have been placed and substantial progress is continuing, permit renewal can be authorized. It is unlawful to continue work after permit expiration.

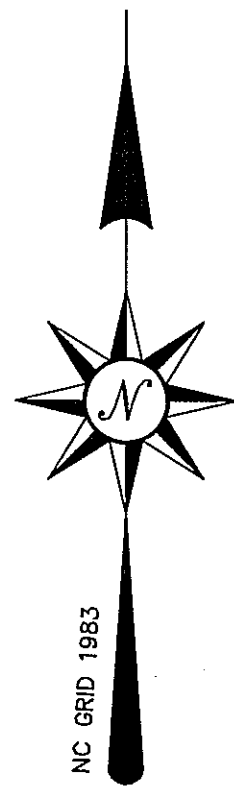
For more information, contact:

Heather Coats
Permit Coordinator, Field Office, Oak Island
127 Cardinal Dr East
Address: _____
Wilmington, NC 28403
Locality: _____
910-796-7424
Phone Number: _____

David D E Litz 9/16/14
Property Owner Signature Date
Donville Litz

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Revised May 2010



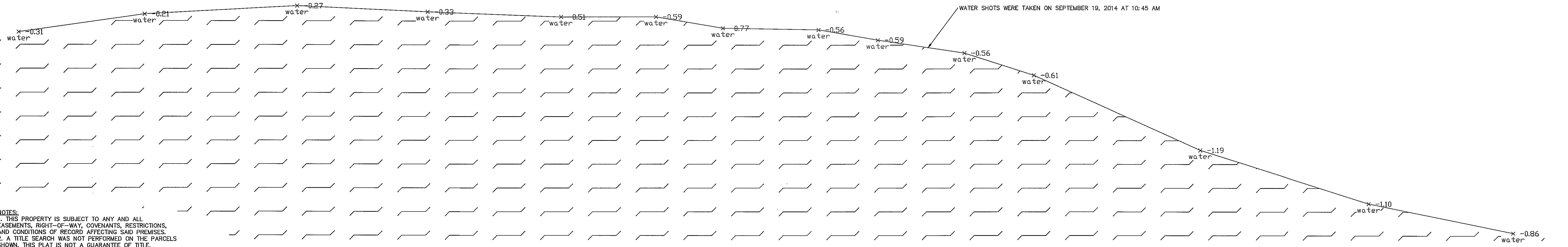
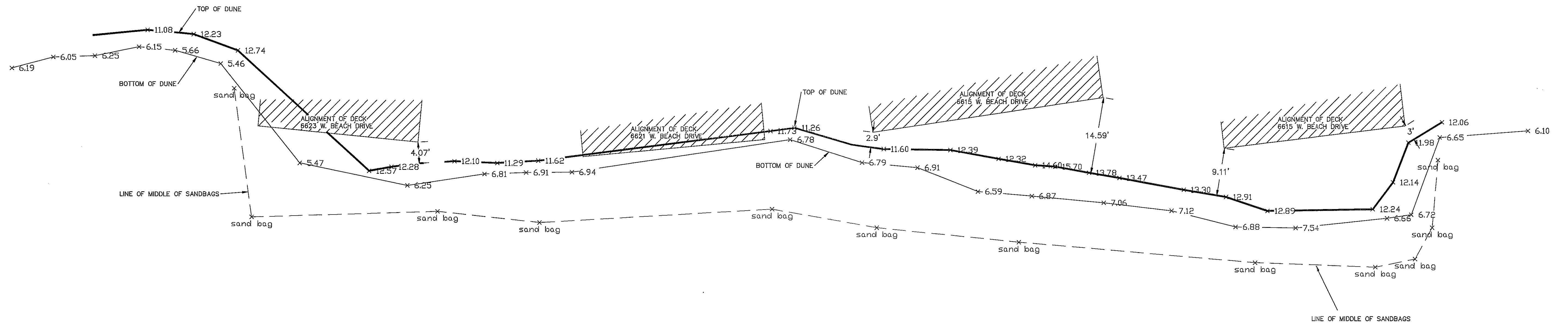
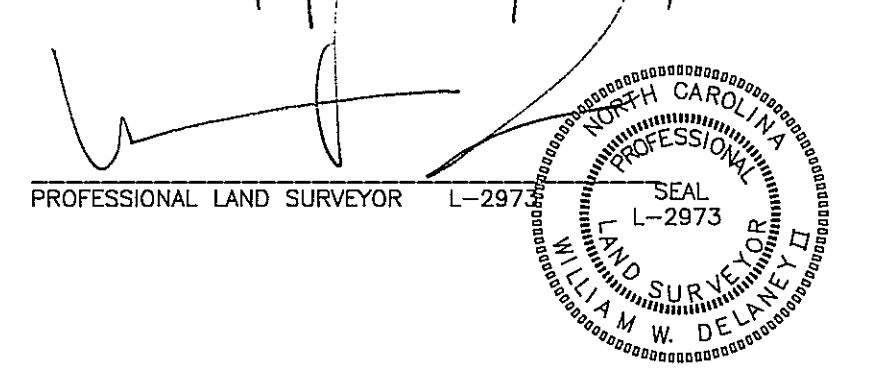
PLAT SCALE: 1" = 10'



SPOT ELEVATIONS (NAD 1988 DATUM) TAKEN FROM 6615 W. BEACH DR. TO 6623 W. BEACH DR. ALONG THE ATLANTIC OCEAN TO EXISTING LINE OF DECKS

NORTH CAROLINA
BRUNSWICK COUNTY
I, WILLIAM W. DELANEY II, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN DEED BOOK _____ ON PAGE _____ IN THE BRUNSWICK COUNTY REGISTER OF DEEDS OFFICE); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN DEED BOOK _____ ON PAGE _____ THAT THE RATIO OF PRECISION AS CALCULATED BY COMPUTER IS 1:10,000+ THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.

WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 16TH DAY OF JULY 2014



NOTES:
1. THIS PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS, RIGHT-OF-WAY, COVENANTS, RESTRICTIONS, AND CONDITIONS OF RECORD AFFECTING SAID PREMISES.
2. A TITLE SEARCH WAS NOT PERFORMED ON THE PARCELS SHOWN. THIS PLAT IS NOT A GUARANTEE OF TITLE.

Surveyed and Mapped By
**Tide Water
Land Surveying**

802 North Howe Street
P.O. Box 11506
Southport, North Carolina 28461
Phone: 910-457-9580

ATLANTIC OCEAN

**DIVISION OF COASTAL MANAGEMENT
FIELD INVESTIGATION REPORT**

1. **APPLICANT'S NAME:** Barry Golob, et al.
 2. **LOCATION OF PROJECT SITE:** Project site is located at 6615-6623 W. Beach Drive, in Oak Island, Brunswick County.

Photo Index - 2006: 8-6161, W, 17-18 2000: 8-68, W, 18-19 1998: 4-61 S, 15-16
State Plane Coordinates - X: 2235472 Y: 60189 Rover File: None
Lat: 33°54'46.22"N Long: 78°13'26.44"W

3. **INVESTIGATION TYPE:** CAMA/Dredge & Fill
 4. **INVESTIGATIVE PROCEDURE:** **Dates of Site Visit** – 4/17/14, 4/30, 5/7, 5/30, 6/18, 9/8, 9/23
Was Applicant Present - No
 5. **PROCESSING PROCEDURE:** **Application Received** – Complete 9/24/14
Office - Wilmington
 6. **SITE DESCRIPTION:**
 (A) **Local Land Use Plan** – Yaupon Beach (Town of Oak Island)
Land Classification From LUP - Developed
 (B) **AEC(s) Involved:** OH
 (C) **Water Dependent:** Yes
 (D) **Intended Use:** Private
 (E) **Wastewater Treatment:** Existing - Municipal
 Planned - N/A
 (F) **Type of Structures:** Existing – Single-family residences, existing sandbags
 Planned - Additional sandbags to protect threatened homes.
 (G) **Estimated Rate of Erosion:** 2'/yr
Source – 2011 LTAASCR Update

7. **HABITAT DESCRIPTION:**

	<u>DREDGED</u>	<u>[AREA]</u> <u>FILLED</u>	<u>OTHER</u>
(A) Vegetated Wetlands §404 wetlands			
(B) Non-Vegetated Wetlands			
Other – High ground		~7,500 sq. ft.	

- (D) **Total Area Disturbed:** ~ 7,500 sq. ft. (0.17 acres)
 (E) **Primary Nursery Area:** No
 (F) **Water Classification:** SB Open: No

8. **PROJECT SUMMARY:** The applicant proposes to add additional sandbags to existing bags to protect the threatened residences.

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9. PROJECT DESCRIPTION

The project site is located at 6615-6623 West Beach Drive, adjacent to the Atlantic Ocean, within the Town of Oak Island, in Brunswick County. To find the project site, travel south on US Highway 17 to NC Highway 133 South. Travel approximately 22 miles south on NC-133 to Doshier Cutoff SE/ NC-133. Turn onto Doshier Cutoff and then turn right on Southport-Supply Rd. SE/ NC-133. Travel approximately 0.8 mile and turn left onto NC-133. Travel on NC-133 to Oak Island and turn right on E. Oak Island Drive. Turn left on Middleton Drive. Turn right on West Beach Drive and travel approximately 3.6 miles to 6615 W. Beach Drive. The project area will be the next four properties on the left.

The properties consist of four single-family lots with a total area of approximately 25,000 square feet. Each lot is occupied by a single-family home. The project area is bordered by West Beach Drive to the north, a lot with a single-family residence to the east, a vacant lot to the west, and the Atlantic Ocean to the south. The annual long-term erosion rate for the project areas is 2'/year, per the Division of Coastal Management's 2011 Annual Erosion Rate maps. The project area is located outside, but immediately adjacent to the boundary of the Inlet Hazard Area. This particular area has been subject to "accelerated erosion" since the beginning of this year. This necessitated the permitting of sandbags under the general permit in May 22, 2014 for these four properties (general permits #63904D-#63907D). At that time, the erosion escarpment was located as close as 6' to the foundation pilings of the house at 6621 W. Beach Dr. The distance from the escarpment to the foundation of the other houses ranged from approximately 18-20'. Sandbags were installed at the end of May to a height of 6' (3 bags in height) but with a base width of approximately 10-15'. Since installation, the sandbags have shifted and subsided due to ongoing erosion of the beach and wave impact. At present time, one row of sandbags remains exposed on the east end of the revetment, and two rows remain exposed at the most to the west. The high water line is now coming up to the top of the sandbags with waves overtopping the bags- particularly given the recent higher than average seasonal tides. As a result, since the sandbags were installed in May, roughly 6'-11' of additional sand dune has eroded, leaving a low trough of that distance between the bags and the current escarpment. Additional bags have been added to the sides of the structure as "wingwalls" to protect the two end homes as the escarpment has eroded landward of the revetment. The adjacent residence to the east is located significantly landward of the adjacent homes and is therefore not considered to be imminently threatened at present time.

The waters of the Atlantic Ocean in this area are classified as SB by the North Carolina Division of Water Resources. The area is not designated as a Primary Nursery Area by the North Carolina Division of Marine Fisheries and is CLOSED to the harvesting of shellfish.

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DCM-MHD CITY

PROPOSED PROJECT:

The applicants are proposing to add additional sandbags on top and landward of the existing sandbags to increase the height and width of the revetment. They are proposing to maintain the height of the sandbag revetment to the existing elevations at the top of the erosion escarpment. This elevation ranges from 11.26' to 15.7'NAVD88 (see attached survey labeled Sheet 4 of 4). The bottom of the existing escarpment ranges from approximately 5.5' to 7.5' NAVD 88 at this time, which translates to a current elevation difference of approximately 6-8' from top to bottom. The applicants are additionally proposing a maximum 30' base width for the bags. The applicants are also proposing to truck in beach compatible sand from an upland source to cover the sandbags. Sand would not be placed waterward of the sandbags.

10. ANTICIPATED IMPACTS:

The project would result in impacts to 7,500 square feet of Public Trust Area- approximately 5,000 square foot which is currently occupied by existing sandbags.

Submitted by: Heather Coats

Date: September 24, 2014

Office: Wilmington

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SEP 29 2014

DCM-MHD CITY




☒ North Carolina Wildlife Resources Commission ☒

Gordon Myers, Executive Director

MEMORANDUM

TO: Jonathan Howell, Assistant Major Permits Processing Coordinator
Division of Coastal Management
North Carolina Department of Environment and Natural Resources

FROM: Maria T. Dunn, Coastal Region Coordinator 
Habitat Conservation Program

DATE: October 24, 2014

SUBJECT: CAMA Dredge/Fill Permit Application for Barry Golob, et al., Brunswick County, North Carolina.

Biologists with the North Carolina Wildlife Resources Commission (NCWRC) reviewed the permit application with regard to impacts on fish and wildlife resources. The project site is located at 6615-6623 W. Beach Drive adjacent the Atlantic Ocean in Oak Island, NC. Our comments are provided in accordance with provisions of the Coastal Area Management Act (G.S. 113A-100 through 113A-128), as amended, Sections 401 and 404 of the Clean Water Act, as amended, and the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.).

The applicant proposes to add additional sandbags to an existing sandbag revetment. The request would extend the sandbag height from 11.26' to 15.7' NAVD88 (height of the sandbag revetment to the existing elevations at the top of the erosion escarpment) and the width to a maximum 30' base. Beach compatible material is proposed to be trucked in from an upland source to cover the bags. No sand is proposed waterward the sandbag alignment.

The NCWRC has reviewed the proposal and is concerned with the extension of the sandbag revetment size and the more permanent aspect the structure would assume. We understand the use of sandbags to protect immanently threatened structures as defined in rule, but do not view sandbag revetments as long term solutions to control erosion issues along ocean front beaches and expect the removal of the bags in the timeframe state in rule. If it is determined

Mailing Address: Division of Inland Fisheries • 1721 Mail Service Center • Raleigh, NC 27699-1721
Telephone: (919) 707-0220 • **Fax:** (919) 707-0028

to be a permissible project by the NC Division of Coastal Management, we request the following be included as permit conditions:

- The potential work may occur during the nesting sea turtle moratorium which runs from 01 May to 15 Nov, or until the last known nest has hatched. To reduce the potential for any unintended impacts to nesting sea turtles and their nests, the NCWRC requests that the work be expedited to the greatest extent possible. All work should be conducted during the daytime only and only begin after qualified sea turtle monitors have evaluated the project area for any potential sea turtle nesting activities.

We appreciate the opportunity to review and comment on this permit application. If you need further assistance or additional information, please contact me at (252) 948-3916 or at maria.dunn@ncwildlife.org

Howell, Jonathan

From: Smith, Ronnie D SAW [Ronnie.D.Smith@usace.army.mil]
Sent: Tuesday, October 07, 2014 1:03 PM
To: Coats, Heather; Howell, Jonathan
Subject: FW: [EXTERNAL] Re: FW: West Beach Major Permit -- Adding Sandbags (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

I coordinated with Kathy Matthews and the applicant, please see the emails below and the conditions from the USFWS. This project qualifies for a GP 48 and the USFWS conditions will be incorporated into our authorization.

Ronnie D. Smith
Project Manager
US Army Corps of Engineers
Wilmington Regulatory Field Office
69 Darlington Avenue
Wilmington, North Carolina 28403-1343
Phone: (910) 251-4829
Fax: (910) 251-4025
Email: ronnie.d.smith@usace.army.mil

We would appreciate your feedback on how we are performing our duties. Our automated Customer Service Survey is located at:

[http://regulatory.usacesurvey.com/.](http://regulatory.usacesurvey.com/)

Thank you for taking the time to visit this site and complete the survey.

-----Original Message-----

From: Golob, Barry [mailto:BGolob@cozen.com]
Sent: Thursday, October 02, 2014 1:36 PM
To: Smith, Ronnie D SAW
Subject: RE: [EXTERNAL] Re: FW: West Beach Major Permit -- Adding Sandbags (UNCLASSIFIED)

Ronnie

Thanks very much Ronnie for your quick response and approval of the project, subject to the conditions below.

I will circle back if I have any further questions and will forward your email to Heather.

Barry

Barry Golob
202.912.4815
bgolob@cozen.com

-----Original Message-----

From: Smith, Ronnie D SAW [mailto:Ronnie.D.Smith@usace.army.mil]
Sent: Thursday, October 2, 2014 1:29 PM
To: Golob, Barry
Subject: FW: [EXTERNAL] Re: FW: West Beach Major Permit -- Adding Sandbags (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Mr. Golob,

Please see the message below from the USFWS concerning your proposed sandbag project. Please let me know if you have any questions or issues with the conditions. Thanks.

Ronnie

-----Original Message-----

From: Matthews, Kathryn [mailto:kathryn_matthews@fws.gov]
Sent: Monday, September 29, 2014 11:03 AM
To: Smith, Ronnie D SAW
Subject: [EXTERNAL] Re: FW: West Beach Major Permit -- Adding Sandbags (UNCLASSIFIED)

Dear Ronnie,

I have reviewed the permit application and attached information concerning the proposed sandbag project on West Beach, Oak Island. The applicant previously placed sandbags (without Corps authorization) along the Atlantic Ocean shoreline in May, 2014. The applicant now proposes to place additional sandbags in the same location, along 250 linear feet of shoreline. The purpose of the project is structural protection for four homes.

If the following conservation measures are met, the U.S. Fish and Wildlife Service would concur with a May Affect, Not Likely to Adversely Affect determination for sea turtles, piping plover, red knot, and seabeach amaranth.

1. Work must be conducted before March 31, 2015.
2. The upland sand source discussed in Attachment 6A of the permit application (if compatible) must be used to backfill and cover the sandbags. Only beach compatible fill must be placed on the beach or in any associated dune system. Beach compatible fill must be sand that is similar to a native beach in the vicinity of the site that has not been affected by prior sand placement activity. Beach compatible fill must be sand solely of natural sediment and shell material, containing no construction debris, toxic material or other foreign matter. The beach compatible fill must be similar in both color and grain size distribution (sand grain frequency, mean and median grain size and sorting coefficient) to the native material in the Project Area. Beach compatible fill is material that maintains the general character and functionality of the material occurring on the beach and in the adjacent dune and coastal system. In general, fill material that meets the requirements of the North Carolina Technical Standards for Beach Fill (15A NCAC 07H .0312) is considered compatible.
3. During the nesting season and hatching season prior to November 16, no construction shall occur on the beach at night. Construction activities must be conducted during daylight hours only to avoid encountering nesting females and emerging hatchling sea turtles.

4. If work is conducted prior to November 16, to the maximum extent practicable, excavations and temporary alteration of beach topography will be filled or leveled to the natural beach profile prior to 9:00 p.m. each day.

5. If any nesting turtles are sighted on the beach during daylight hours, construction activities must cease immediately until the turtle has returned to the water, and a sea turtle permit holder responsible for nest monitoring has marked for avoidance or relocated any nest(s) that may have been laid.

6. Equipment access to the site must be as close to the project area as possible. If work is conducted prior to November 16, equipment must not drive down the beach outside of the project area.

Please call if you have any questions.

Thanks,

Kathy

On Wed, Sep 24, 2014 at 1:46 PM, Smith, Ronnie D SAW <Ronnie.D.Smith@usace.army.mil> wrote:

Classification: UNCLASSIFIED
Caveats: NONE

Kathy,

This applicant wants to add sandbags to his existing revetment. This 50' long revetment was installed sometime in mid-may without a permit from the Corps. The existing bags were installed above MHW but the sand was pumped from the ocean. They propose to do the same with the proposed sand bags. All sand bags will be placed landward of the existing sand bags and beach compatible sand will be placed on top of the sandbags, above MHW. Pictures and plans are attached for your reference. This pumping work will occur during the sea turtle nesting season. However, nesting habitat appears to be degraded and or absent. Would you concur with a MA,NLAA for this project? Please contact me if you have any questions.

Ronnie D. Smith
Project Manager
US Army Corps of Engineers
Wilmington Regulatory Field Office
69 Darlington Avenue

Wilmington, North Carolina 28403-1343
Phone: (910) 251-4829
Fax: (910) 251-4025
Email: ronnie.d.smith@usace.army.mil

We would appreciate your feedback on how we are performing our duties. Our automated Customer Service Survey is located at:

<http://regulatory.usacesurvey.com/>.

Thank you for taking the time to visit this site and complete the survey.

-----Original Message-----

From: Golob, Barry [mailto:BGolob@cozen.com]
Sent: Wednesday, September 24, 2014 1:14 PM
To: Smith, Ronnie D SAW
Subject: [EXTERNAL] West Beach Major Permit -- Adding Sandbags

Barry Golob

202.912.4815

bgolob@cozen.com <<mailto:bgolob@cozen.com>>

From: bgolob [mailto:accuroute@cozen.com]
Sent: Tuesday, September 23, 2014 5:29 PM
To: Golob, Barry
Subject: MyAccuRoute Delivery

The attached file was processed by the AccuRoute server as requested.

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Classification: UNCLASSIFIED
Caveats: NONE

--

Kathy Matthews
Fish and Wildlife Biologist
Raleigh Ecological Services
U.S. Fish and Wildlife Service
P.O. Box 33726
Raleigh, NC 27636-3726
Phone 919-856-4520 x27
Email kathryn_matthews@fws.gov

FWS.GOV/RALEIGH <<http://www.fws.gov/raleigh>> | Facebook
<<https://www.facebook.com/pages/USFWS-in-North-Carolina/127502634126752>> | YouTube
<<http://www.youtube.com/channel/UCMqPAPfBGSdMs2UiD-5Tbbg>> | Flickr
<<http://www.flickr.com/photos/usfwssoutheast/collections/72157634196660344/>> |

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Caveats: NONE

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Classification: UNCLASSIFIED
Caveats: NONE



North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Pat McCrory
Governor

John E. Skvarla, III
Secretary

MEMORANDUM:

TO: Jonathan Howell, DCM Assistant Major Permits Coordinator

FROM: Jessi Baker, DCM Fisheries Resource Specialist *JOB*

SUBJECT: 6615-6623 West Beach Drive, Oak Island, NC

DATE: October 24, 2014

Job

A North Carolina Division of Coastal Management (DCM) Fisheries Resource Specialist has reviewed the subject permit application for proposed actions that impact fish and fish habitats. The applicant proposes to add additional sandbags to an existing, oceanfront sandbag revetment in front of four structures on the western end of the island. The total revetment will be approximately 30 feet wide, 250 feet long, and up to 6-8 feet tall.

The intertidal beach zone supports an important prey source for various fishes (ex. red drum and flounder) as well as providing forage, nursery, and refuge areas for species such as kingfish and pompano. Oceanfront shoreline armoring is well documented to degrade beach surf zones by effecting erosion rates and sediment grain size which can result in a much narrower surf zone, increased turbidity, and a reduced abundance and diversity of benthic macroinvertebrates (Deaton et al. 2010, Defeo et al. 2009, and Pilkey and Wright 1988).

The placement of a shore-parallel, hardened structure like a large sandbag revetment on an eroding oceanfront beach has a high likelihood of resulting in significant losses of swash zone fish habitat. Ultimately, erosive processes could undermine the structure itself, resulting in compromised infrastructure, including sewer systems which would further degrade the surf zone habitat. For these reasons, use of shore-parallel, hardened structures are likely to result in significant adverse impacts to surf zone fish habitat.

Please feel free to contact Jessi Baker at (252) 808-2808 ext. 213 or jessi.baker@ncdenr.gov if you have any further questions or concerns.

References

- Deaton, A.S., W.S. Chappell, K. Hart, J. O'Neal, B. Boutin. 2010. North Carolina Coastal Habitat Protection Plan. North Carolina Department of Environment and Natural Resources. Division of Marine Fisheries, NC. 639 pp.
- Pilkey, O. H. and H.L. Wright. 1988. Seawalls versus beaches. *Journal of Coastal Research* SI(4): 41-64.
- Defeo, P. K., D.S. Schoeman, J. D. T.A. Schlacher, A. Jones, M. Lastra, and F. Scapini. 2009. Threats to sand beach ecosystem: A review. *Estuarine, Coastal and Shelf Science* 89(1-2): 1-12.



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

September 25, 2014

Division of Coastal Management
MEMORANDUM:

TO: Jessi Baker
Fisheries Resource Specialist
Division of Coastal Management

FROM: Jonathan Howell, NC DENR-DCM Assistant Major Permits Coordinator
400 Commerce Ave., Morehead City, NC 28557 (**Courier 11-12-09**)

SUBJECT: CAMA / Dredge & Fill Application Review

Applicant: **Barry Golob, et al.**

Project Location: 6615-6623 W. Beach Dr., adjacent to the Atlantic Ocean, in Oak Island, Brunswick Co.

Proposed Project: to add additional sandbags to existing bags

Please indicate below your agency's position or viewpoint on the proposed project and **return this form to Jonathan Howell** at the address above by **October 18, 2014**. If you have any questions regarding the proposed project, contact Heather Coats at (910)796-7424 when appropriate, in-depth comments with supporting data is requested.

- REPLY:** _____ This agency has no objection to the project as proposed.
- _____ This agency has no comment on the proposed project.
- _____ This agency approves of the project only if the recommended changes are incorporated. See attached.
- _____ This agency objects to the project for reasons described in the attached comments.

SIGNED

Jessi Baker

DATE

10/24/14



North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Pat McCrory
Governor

John E. Skvarla, III
Secretary

October 24, 2014

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Barry Golob
10820 Hob Nail Court
Potomac, MD 20854

Dear Mr. Golob:

This letter is in response to your application for a CAMA Major Permit under the Coastal Area Management Act (CAMA), in which authorization was requested to construct a sand bag revetment with a maximum base width of 30' and a maximum height of 15.7' NAVD 88 adjacent to 4 properties along the Atlantic Ocean shoreline of Oak Island, North Carolina. The proposal also includes a request to acquire beach compatible sand from an upland source to cover the sand bags after installation. Processing of the Major Permit request, which was accepted as complete by the Division of Coastal Management's Wilmington Regional Office on September 24, 2014 is now complete. Based on the state's review, the Division of Coastal Management has made the following findings:

- 1) The proposed project site borders four separate tracks of land, each occupied by a single-family residence. On May 22nd, 2014, each of these lots received a CAMA General Permit authorizing the construction of a sandbag structure to protect the property from erosion. The sandbag structures were constructed at the end of May, 2014 with a height of 6 feet and a base width of 20 feet.
- 2) The project will be located within the Ocean Hazard Area of Environmental Concern (AEC) and is therefore subject to the use standards for temporary erosion control structures found in NCAC 7H.0308(a)(2).
- 3) The project proposed under the subject CAMA Major Permit Application involves the enlargement of the existing sandbag structure to a maximum base width of 30' and a maximum height of 15.7' NAVD 88. The proposed enlargement of the sandbags would exceed the allowable sandbag dimensions found in NCAC 7H.0308(a)(2)(K). This rule states in part, "Base width of the structure shall not exceed 20 feet, and the height shall not exceed six feet."

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Phone: 252-808-2808 \ FAX: 252-247-3330 \ Internet: www.nccoastalmanagement.nc.gov

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EXHIBIT

2

- 4) Based upon the above referenced findings, the project is inconsistent with 07H.0308, specific use standards for Ocean Hazard Areas Temporary Erosion Control Structures.

Given the preceding findings, it is necessary that your request for issuance of a Major Permit under the Coastal Area Management Act be denied. This denial is made pursuant to N.C.G.S. 113A-120(a)(8) which requires denial for projects inconsistent with the state guidelines for Areas of Environmental Concern or local land use plans.

If you wish to appeal this denial, you are entitled to a hearing. The hearing will involve appearing before an Administrative Law Judge who listens to evidence and arguments of both parties and then makes a recommendation to the Coastal Resources Commission. Your request for a hearing must be in the form of a written petition, complying with the requirements of §150B of the General Statutes of North Carolina, and must be filed with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714, within twenty (20) days from the date of this letter. A copy of this petition should be filed with this office.

Members of my staff are available to assist you should you desire to modify your proposal in the future. If you have any questions concerning this matter, please contact Mr. Jonathan Howell at (252) 808-2808, extension 211.

Sincerely,



Braxton C. Davis
Director

Cc: U.S. Army Corps of Engineers, Wilmington, NC





October 31, 2014

Barry P. Golob

Direct Phone 202-912-4815

Direct Fax 202-618-4843

bgolob@cozen.com

VIA EMAIL

Frank Gorham, Chairman
c/o Mary Lucasse, Esq.
Special Deputy AG and Counsel to CRC
North Carolina Department of Environment
and Natural Resources
400 Commerce Avenue
Morehead City, North Carolina 28557

**Re: Golob et al. Sandbag Project – Oak Island, West Beach
Request for Expedited Hearing – G.S. 143-318.12(f)**

Dear Mr. Gorham and Ms. Lucasse:

Pursuant to General Statute 143-318.12(f) and 15A NCAC 7J.0701, the four houses located at 6615-6623 West Beach Drive, Oak Island, North Carolina (Petitioners), respectfully request an expedited hearing at the Coastal Resources Commission's ("CRC") earliest convenience on its Variance Request Form submitted October 30, 2014.

The petition for an emergency variance concerns the denial of a September 24, 2014 CAMA Major Permit request in which authorization was requested to (1) construct a sand bag revetment with a maximum base wide of 30 feet and a maximum height of 15.7 feet NAVD 88 adjacent to four single-family properties along the Atlantic Ocean shoreline on the west end of Oak Island, North Carolina ("Properties"), and (2) acquire beach compatible sand from an upland source to cover the sand bags after installation. Thus the petition seeks a variance from CRC rules pertaining to physical specifications for sand bag revetment structures. Recent winds, swells and surges of extremely high lunar tides have produced severe wave action that has resulted in significant shoreline erosion at these Properties, to the point where the shoreline is being pushed up directly against the escarpment. These Properties are facing "unexpected circumstances that require immediate consideration by the [CRC]." See NCGS § 143-318.12(f). These unexpected and uncontrollable conditions, as described more fully in the variance request, have exposed the Properties and inhabitants to imminent danger, as seen from the recent pictures taken earlier this week by Division of Coastal Management ("DCM") staff, as well as the pictures contained in the variance

Frank Gorham, Chairman
Mary Lucasse, Esq.
October 31, 2014
Page 2

request. Indeed, two of the properties at issue are facing a situation where the foundation pilings are already dangerously exposed. (See Exhibit A hereto, pictures; see also Variance Request at Attachment H, Exhibits 4, 6-10).

A sand bag structure was constructed on the Properties pursuant to a CAMA General Permit received on May 21, 2014 and in accordance with 15A NCAC 7H .0308(a)(2)(E) and (K). Due to settlement, shifting and severe wave action, the sand bag structure has been rendered ineffective to protect the escarpment from continued erosion and exposes the Properties and their occupants to imminent danger. Severe erosion and shoreline recession at these Properties has occurred at historical levels, on the order of 40-60 feet in the last several months. These unexpected and uncontrollable conditions have already caused the Petitioners to suffer significant damage to their Properties, including destruction of decking, stairs and other improvements, and such damages will likely be exacerbated by any delay in the Petitioners request to increase the existing sand bag structure.

At this point, a single moderate storm driving storm surge in front at regular lunar tides could eliminate all remaining dune and pose a significant risk to the Properties and their inhabitants. In addition, should such a disaster occur, it would likely also result in flooding of the road and interior of the island at this location.

The Petitioners need to immediately install the revetment structure as a necessary last resort to attempt to mitigate the adverse and rapid impacts of increasingly severe erosion that poses imminent danger to the Properties, inhabitants and infrastructure.

As such, Petitioners respectfully request that the CRC advance the Variance Petition on its docket and calendar and conduct a telephonic hearing.

Petitioners are available to work with the DCM on an expedited basis regarding the Stipulated Facts in order to incorporate counsel's recommendations and be prepared for an expedited telephonic conference at the Commission's convenience.

Sincerely,



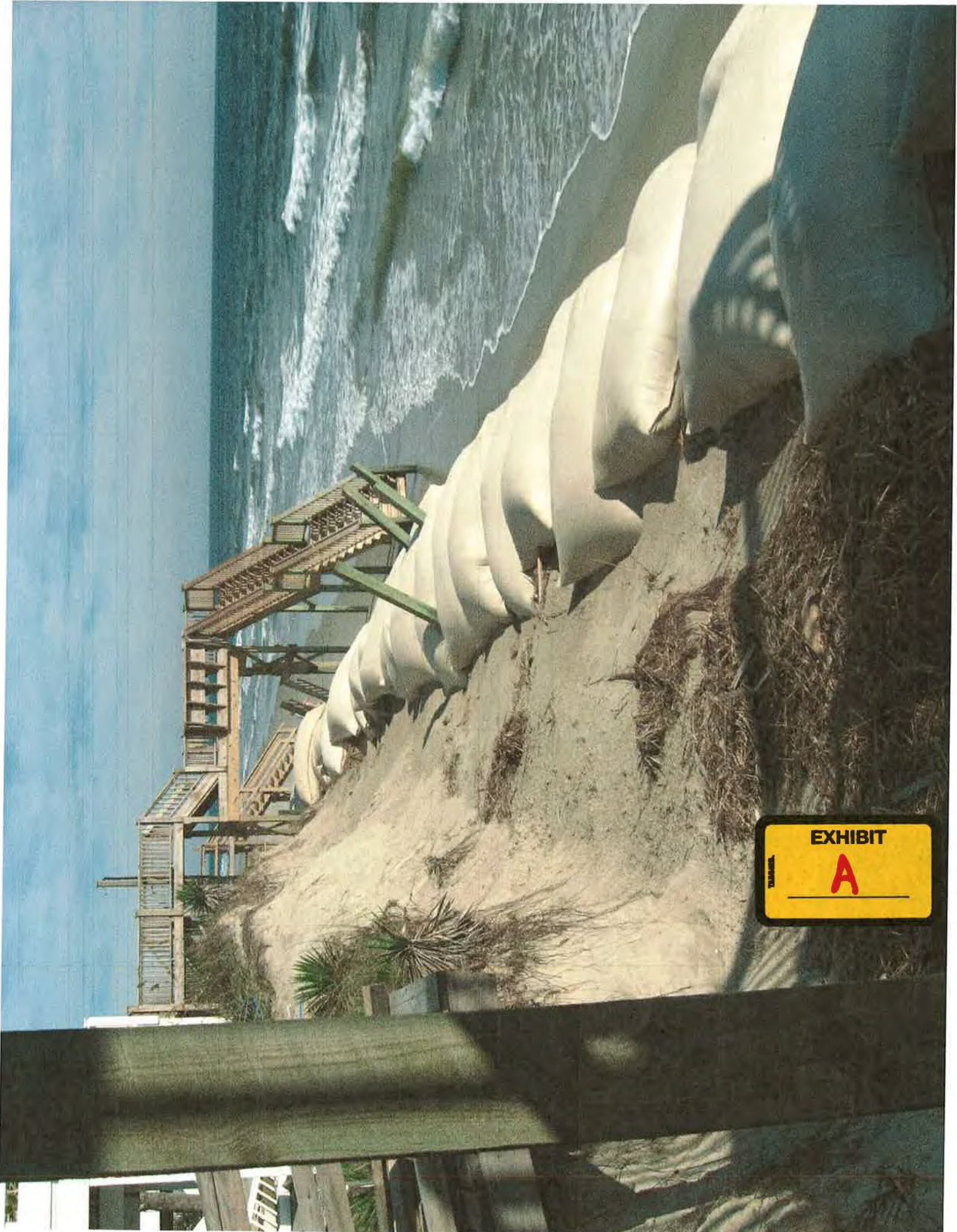
Barry P. Golob

Attachment

cc: Christine Goebel, Esq.



EXHIBIT
A



EVIDENCE
EXHIBIT
A

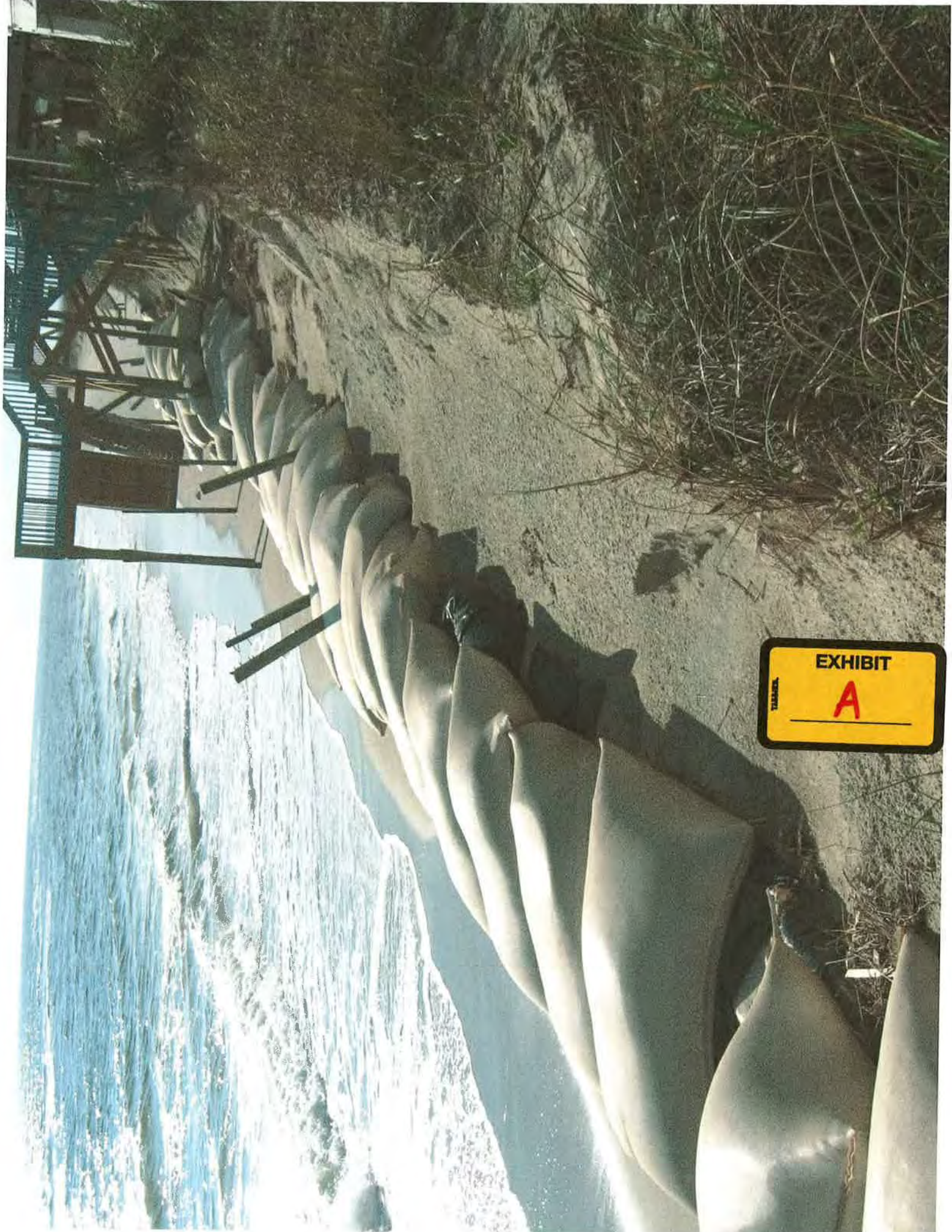


EXHIBIT
A

TERRAZZA



EXHIBIT
A

EXHIBIT
A



North Carolina
Coastal Resources Commission

November 2, 2014

Via Email: bgolob@cozen.com

Barry P. Golob, Esq.
Cozen O'Connor
1627 I Street, NW, Suite 1100
Washington, DC 20006-1605

Dear Mr. Golob:

I have reviewed the October 31, 2014 letter and attachments submitted on behalf of yourself and others in support of a request for an expedited hearing on the variance request submitted on October 30, 2014 and the response provided by DCM on November 3, 2014. Based on the information submitted and taking that information at face value, I note that you have alleged that the four single-family properties located at 6615-6623 West beach Drive, Oak Island, North Carolina have been recently impacted by winds, swells, and surges of extremely high lunar tides that have produced severe wave action resulting in significant shoreline erosion at the properties to the point where the shoreline is pushed up directly against the escarpment on the four properties.

North Carolina General Statutes at § 143-318.12(f) provides that an emergency meeting may be scheduled in situations where “generally unexpected circumstances” are present requiring “immediate consideration by the public body.” Given the information provided, I have decided to conditionally grant your request and call a special meeting that will be scheduled before the Commission’s next regularly scheduled meeting on December 17 and 18, 2014. This decision is limited to the finding that the hearing is justified and should not be read by anyone as an indication of how the Coastal Resources Commission will ultimately decide the request for a variance.

In order for the Commission to expedite a special meeting on the variance request, there are several issues which must be addressed:

First, I understand that you are not licensed to practice law in North Carolina and have not been admitted *pro hac vice* for this case. Therefore, you cannot represent your neighbors at any quasi-judicial hearing before the Coastal Resource Commission. I see three possible ways to address this issue. One option is for each of the homeowners to appear at the hearing and represent themselves *pro se*. If this is the option you select please submit a written agreement no later than Friday November 7, 2014 signed by each homeowner agreeing that they will be present at the hearing. A second option is for the four homeowners to hire an attorney to represent them at the hearing before the Coastal Resources Commission. A third option would be for you to follow the procedures established by N.C.G.S. § 84.41 to be admitted *pro hac vice* for the purpose of representing all four homeowners before the commission on the variance request. Please let me know how you would like to proceed no later than Friday.

Division of Coastal Management
Department of Environment and Natural Resources
400 Commerce Ave., Morehead City, North Carolina 28557
Phone 252-808-2808 FAX 919-733-1495



PAT McCRORY
GOVERNOR

FRANK GORHAM
CHAIRMAN

RENEE CAHOON
VICE CHAIR

NEAL ANDREW

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SUZANNE DORSEY

MARC HAIRSTON

GREG LEWIS

BEN "JAMIN" SIMMONS

HARRY SIMMONS

JOHN SNIPES

BILL WHITE

BRAXTON C. DAVIS
EXECUTIVE SECRETARY



Barry P. Golob, Esq.

November 3, 2014

Page 2

Second, the four homeowners and DCM must have an agreed on set of stipulated facts.

Third, the four homeowners must provide proof that 1) notice of the variance request was sent to adjacent riparian owners and 2) notice of the variance request was sent to any objectors to the project who commented during the permit process;

We are in the process of determining if there a quorum of duly appointed members of the Commission available for a hearing on either November 24 or 25, 2014. Please let me know you are available for a hearing on these dates. We understand that the homeowners and counsel for the Division of Coastal Management will need an opportunity to agree to a set of Stipulated Facts once the homeowners have submitted all the required materials. In order to provide the materials to the Commissioners for their review, the parties must meet the following schedule:

Nov. 7, 2014	Inform Commission Counsel who will be representing the four homeowners at the quasi-judicial hearing on the variance request;
Nov. 13, 2014	Petitioners complete their variance petition:
Nov. 17, 2014	Petitioners and DCM agree on set of stipulated facts;
Nov. 19, 2014	Mail out package of material to Commissioners

Once we have identified a date for the meeting when a quorum will be available, staff will provide notice of the meeting time, place and purpose to the public and interested parties at least 48 hours before the meeting. This notice will include a means by which the public can listen to the open meeting.

If the Commission is unable to gather a quorum before the next regularly scheduled meeting and the stipulated facts are agreed to four weeks prior to the first day of the regularly scheduled meeting, then the variance petition will be heard during the scheduled December 17 and 18, 2014 meeting. Commission counsel, Mary L. Lucasse, Esq. will keep you informed of the schedule and will ensure that the homeowners have a minimum of forty-eight (48) hour notice of a scheduled public hearing on this issue. Please do not hesitate to let Mary L. Lucasse know if you have any questions regarding this information.

Sincerely,
Frank D. Gorham III

Frank D. Gorham, III

cc: Christine A. Goebel, Esq. (via email)
Braxton C. Davis, Director (via email)



THE TOWN OF OAK ISLAND, NORTH CAROLINA



LOCKWOOD FOLLY HABITAT RESTORATION PROJECT DREDGING OF EASTERN CHANNEL



Project Need – Navigation, Water Quality & Infrastructure

Navigation

- Navigation of Eastern Channel is limited to high tides
- Many areas have shoaled to -4' to -6' NAVD (-1 to -3 MLLW) and some areas are even shallower
- Eastern Channel connection at inlet is closed

Water Quality

- Water quality is also a concern along Davis Creek and other sloughs and fecal coliform counts appear to be increasing

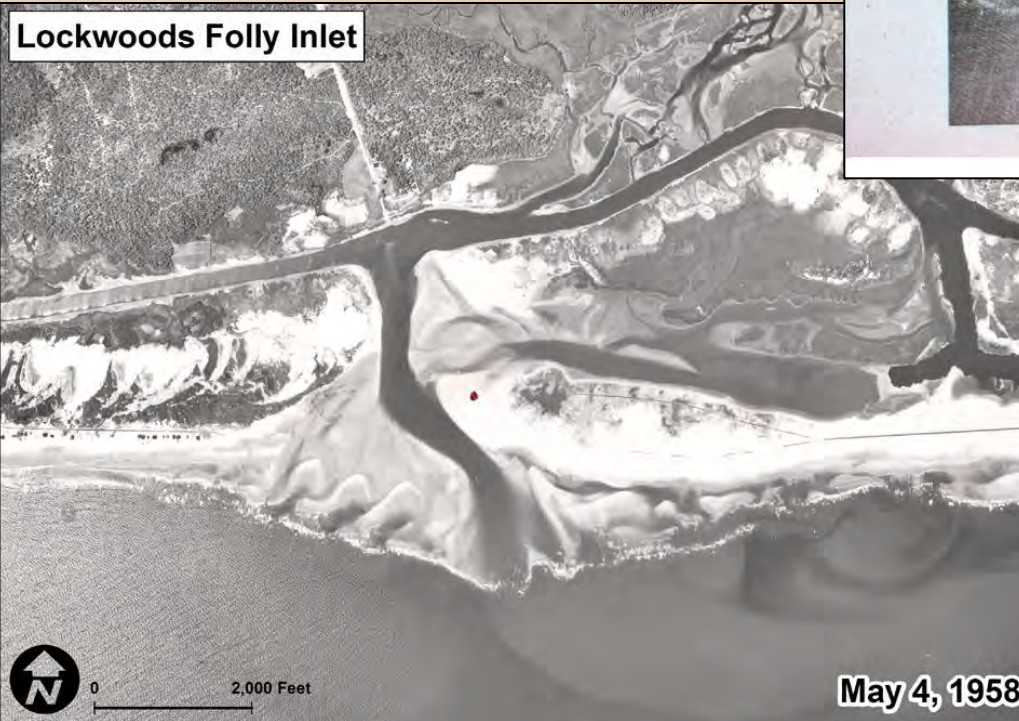
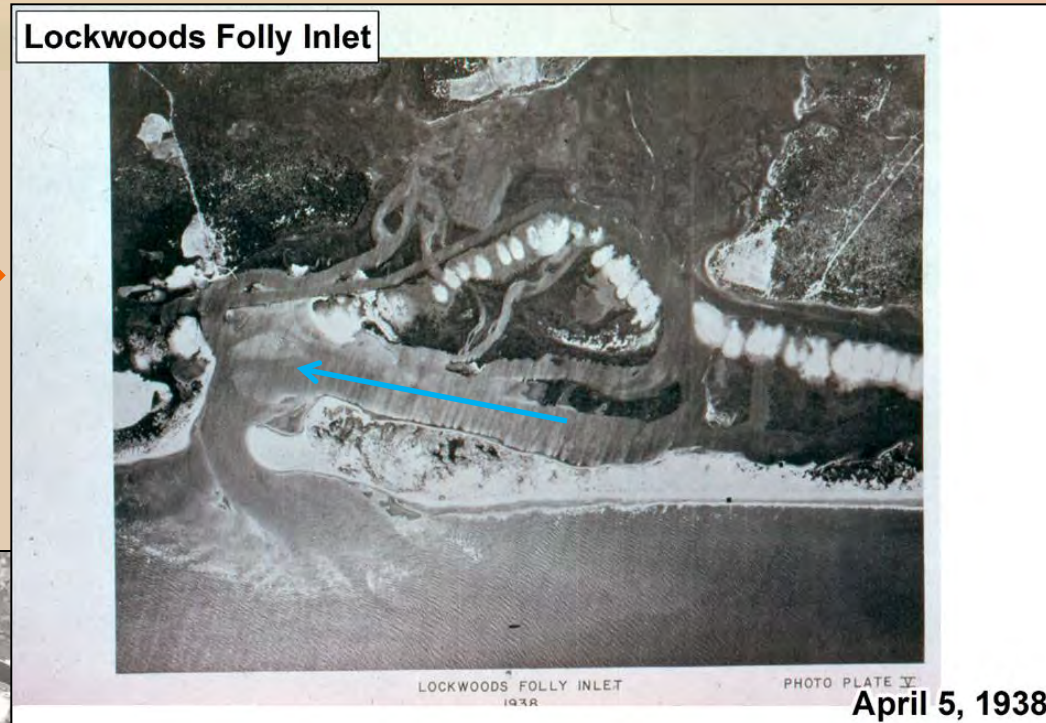
Infrastructure Protection & Habitat Loss

- Number of homes along west end of Oak Island are very vulnerable – winter storms have exacerbated conditions – 14-15' tall escarpments
- Significant escarpments will limit turtle nesting habitat

Need For Project

Navigation

- Clearly Defined Navigation Channel, Aligned Towards West

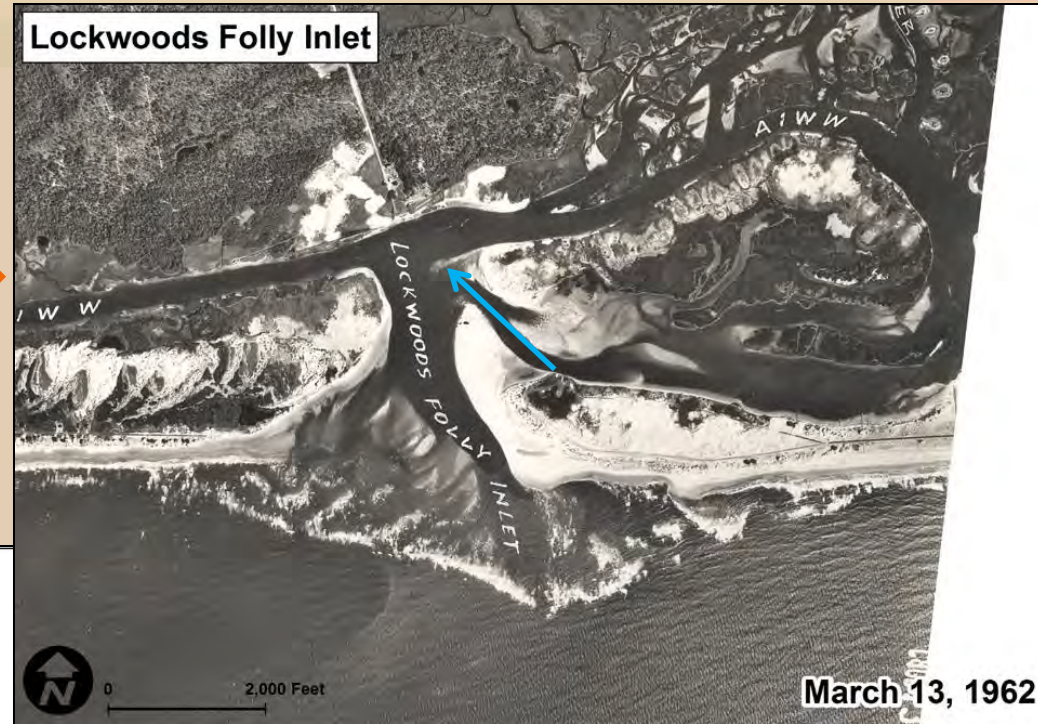



- Channel Closes Off At Entrance to LFI

Need For Project

Navigation

- Defined Channel Opens, Aligned Towards Northwest 



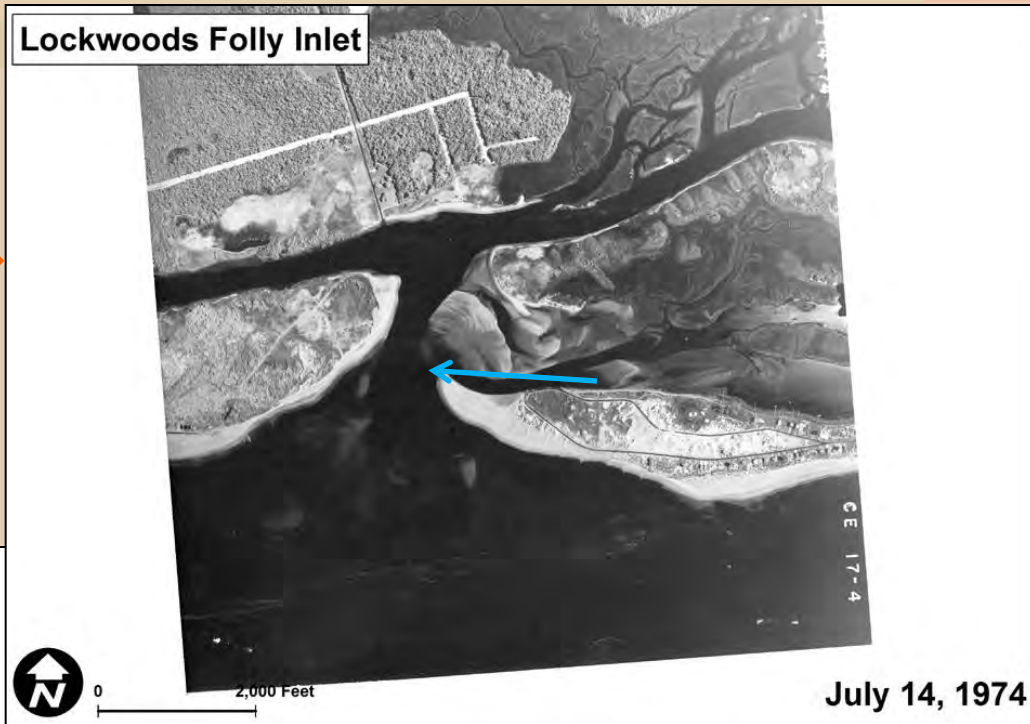
- Channel Closes Off At Entrance to LFI 



Need For Project

Navigation

- Defined Channel Opens, Aligned Towards West 



Lockwoods Folly Inlet

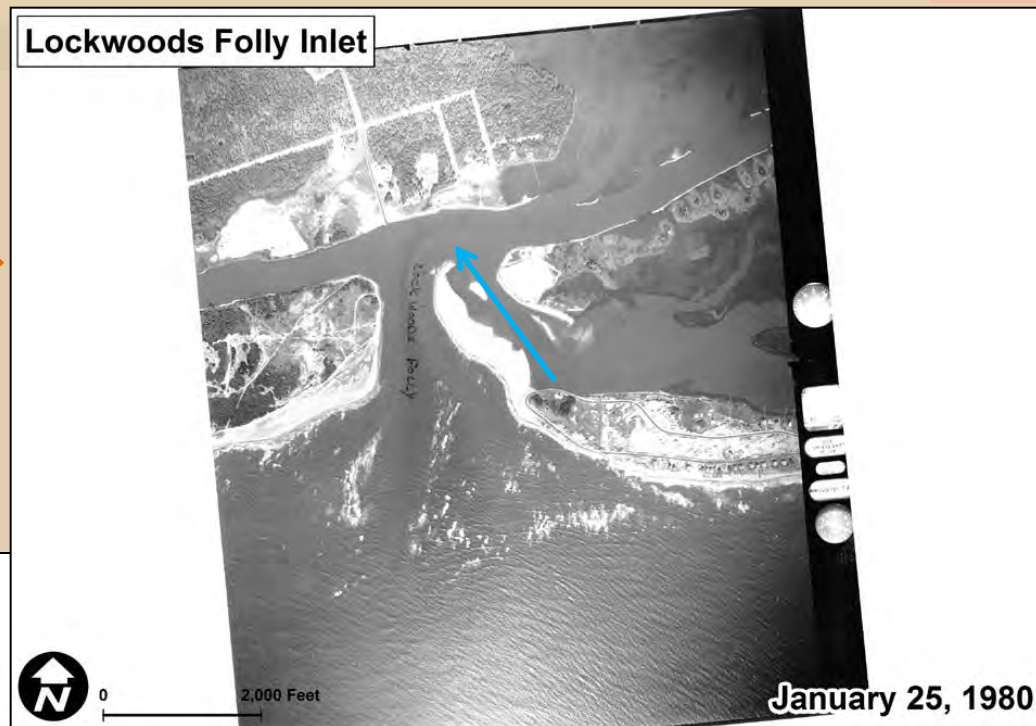


- Channel Closes Off At Entrance to LFI 

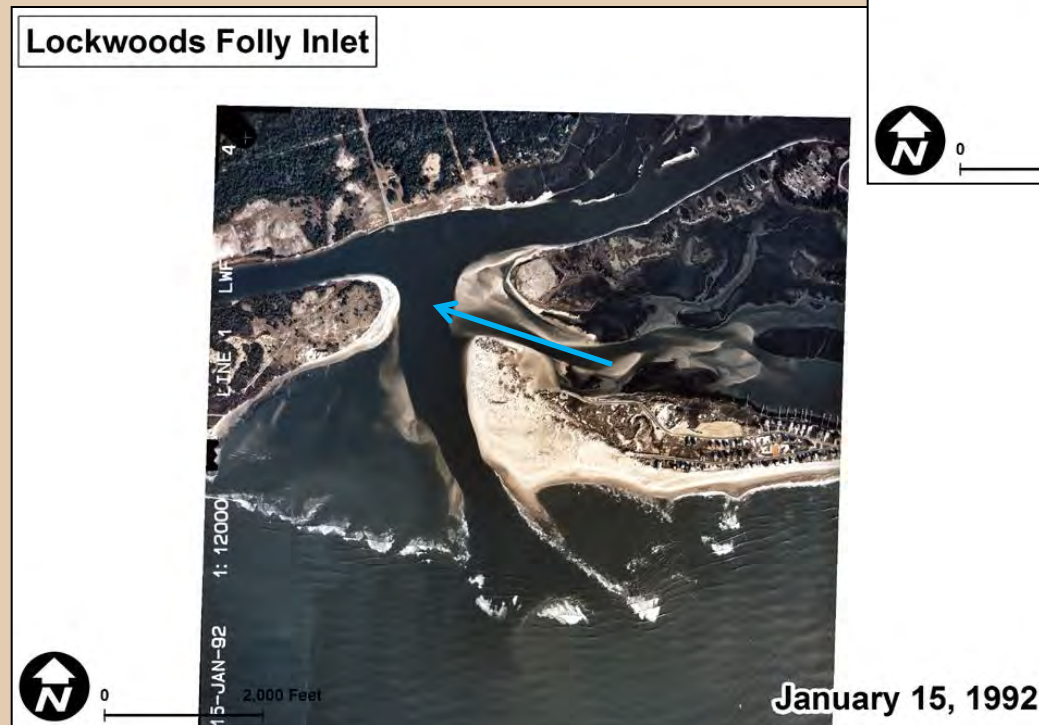
Need For Project

Navigation

- Defined Channel Opens, Angled Towards North 



- Channel Migrates To Northwest Alignment 



Need For Project

Navigation

- Channel Migrates To Western Alignment



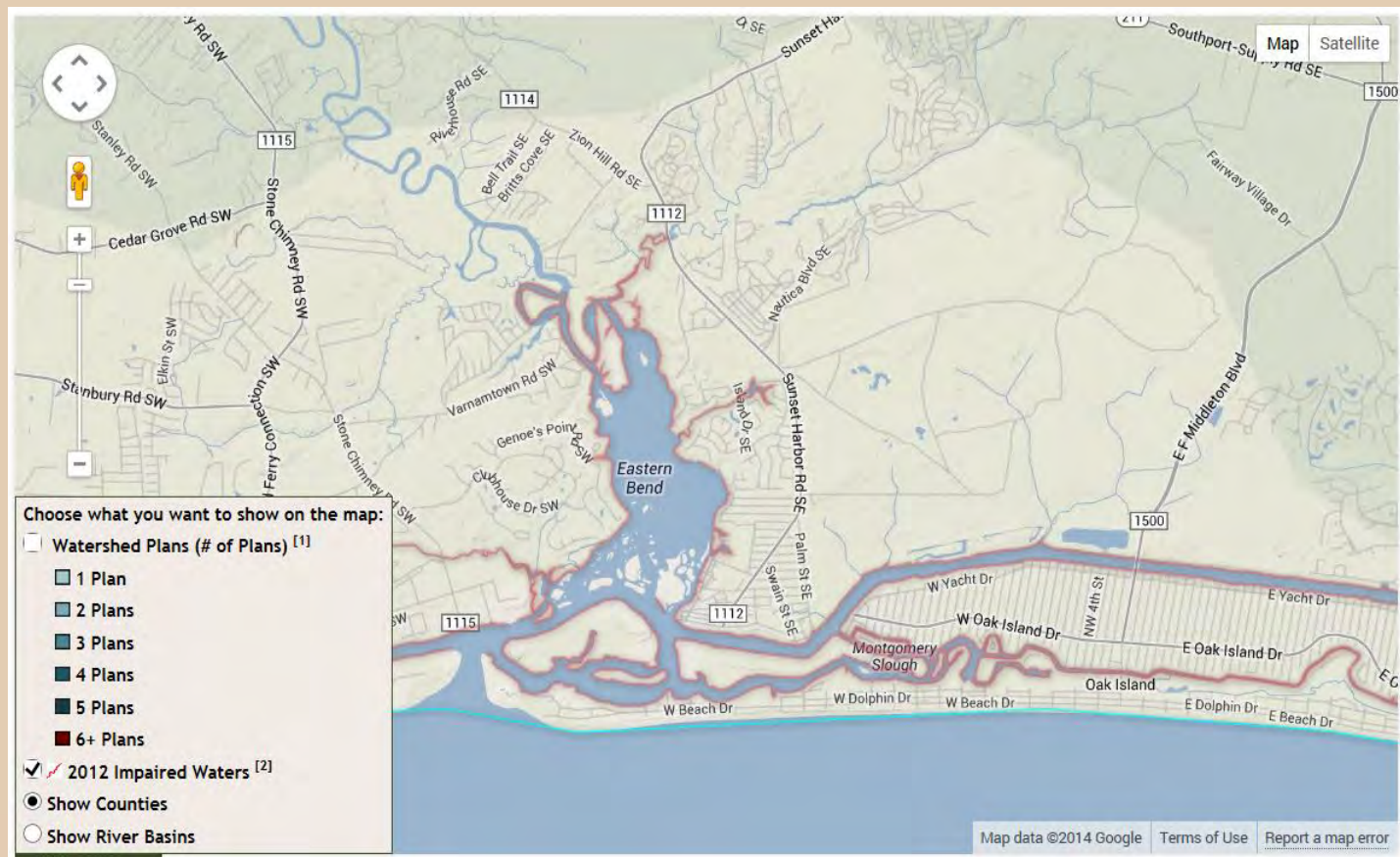
- Secondary Channel Opens Aligned Towards Northwest, Previous Channel Closes at Entrance to LFI



Need For Project – Water Quality

Water Quality

- Impaired Waters throughout the area
- Town has invested over \$177M in a sewer system to limit impacts

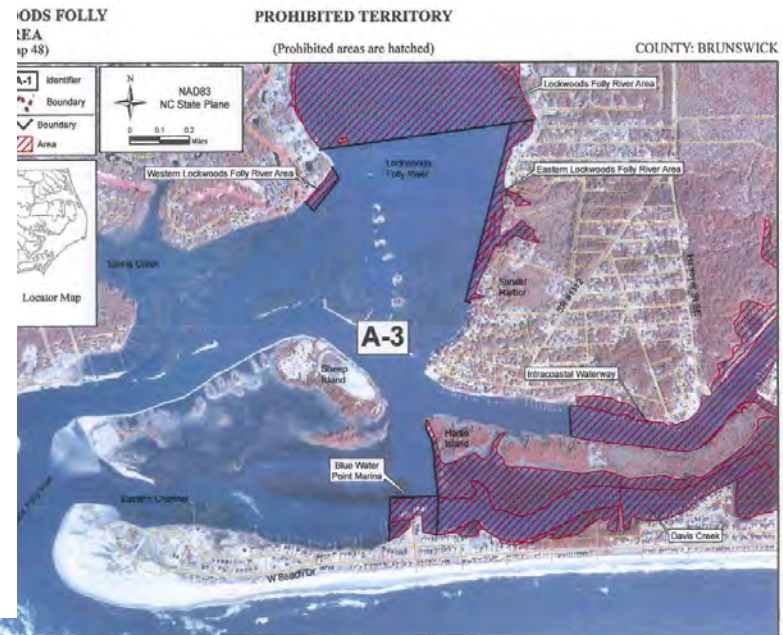
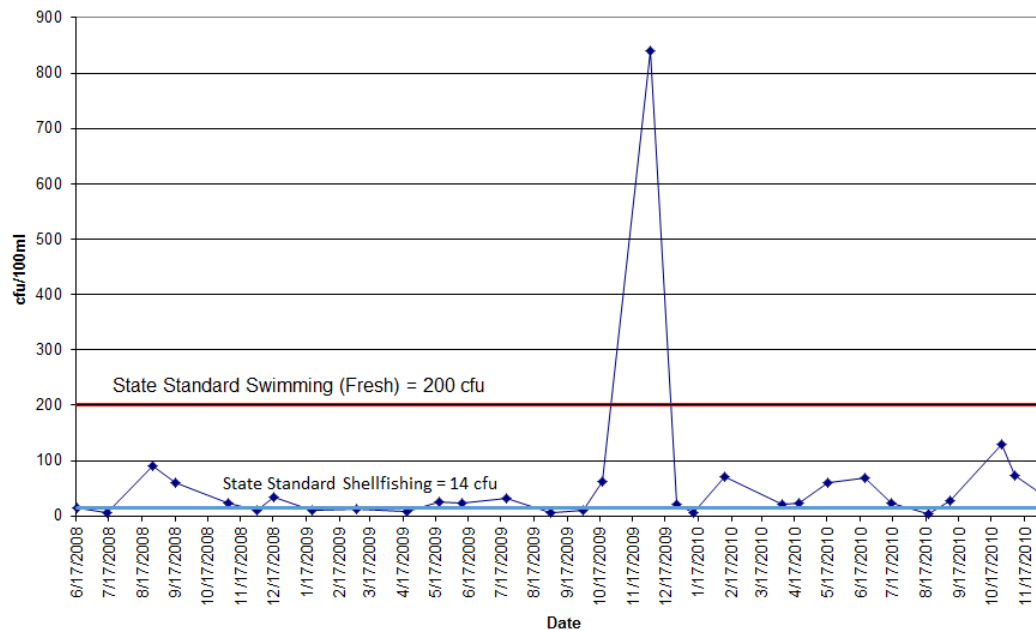


Need For Project – Water Quality

Water Quality

- Davis Canal and other sloughs have concerns
- Additional tidal flushing can improve water quality conditions

NC DWQ Davis Canal Monitoring Station
Fecal Coliform



Map 48

(SEE BACK OF MAP FOR AREA DESCRIPTIONS.)

Need For Project

Infrastructure Vulnerability & Habitat Loss



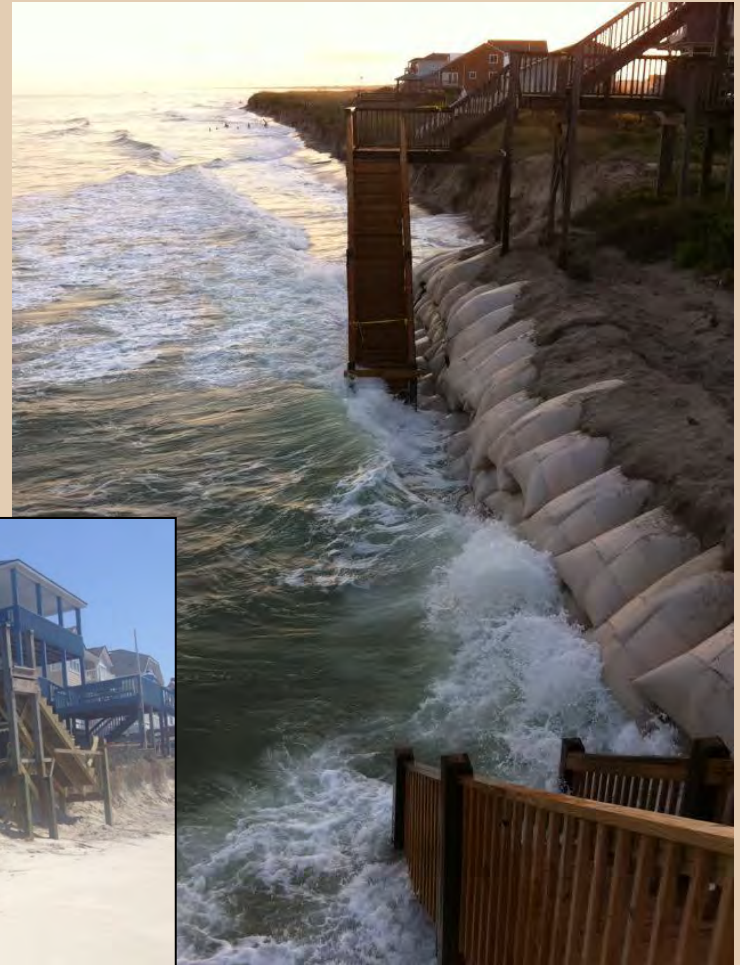
Need For Project

Infrastructure Vulnerability & Habitat Loss



Need For Project

Infrastructure Vulnerability & Habitat Loss



Project Need – Navigation, Water Quality & Infrastructure

Dredging of Eastern Channel Will Help All Three Situations

- Dredging to an adequate depth should help maintain channel navigability
- Deeper in areas near the inlet – shallower in stable areas
- Improved hydraulics will allow more tidal flushing and should benefit water quality
- Beneficial use of beach compatible dredged material can be used to protect infrastructure that has reached a critical erosion point and also provide turtle nesting habitat
- Non-beach compatible material will be placed on Sheep Island CDF

Past Work/Existing Data

USACE Work

- **Multiple projects – Sediment Budget, 50-yr Project, Turtle Habitat Restoration Project, Eastern Channel Navigation**
- **This site not included in 50-yr project**
- **Vibracores collected within project area**

CSE Study (2008 – 2009)

- **Analysis of historical photos, tidal measurements, bathymetric/topo surveys, some sediment sampling**
- **Developed various channel alignments for inlet/tidal stability with option to place beach compatible material on the beach**

Past Work/Existing Data

Previous Geotechnical Studies

- **CSE compiled all available data at time**
- **Determined transition from beach compatible to non-beach compatible sediments within Eastern Channel – 10% Fines – Navigation project**
- **Transition zone located near 66th Street**

Past Channel Designs

- **Two options investigated by CSE for connection to inlet/AIWW**
- **Northwest option connected to AIWW / Due west option connected to inlet**

Past Work/Existing Data



Preliminary Drawing
Not for Construction

NO.	REVISION	BY	DATE

Company of HARRIS CITY, **CSE**
 Coastal Science & Engineering
 PO BOX 1868
 HARRIS CITY, NORTH CAROLINA 28587
 PHONE: (252) 222-2878
 FAX: (252) 222-2877

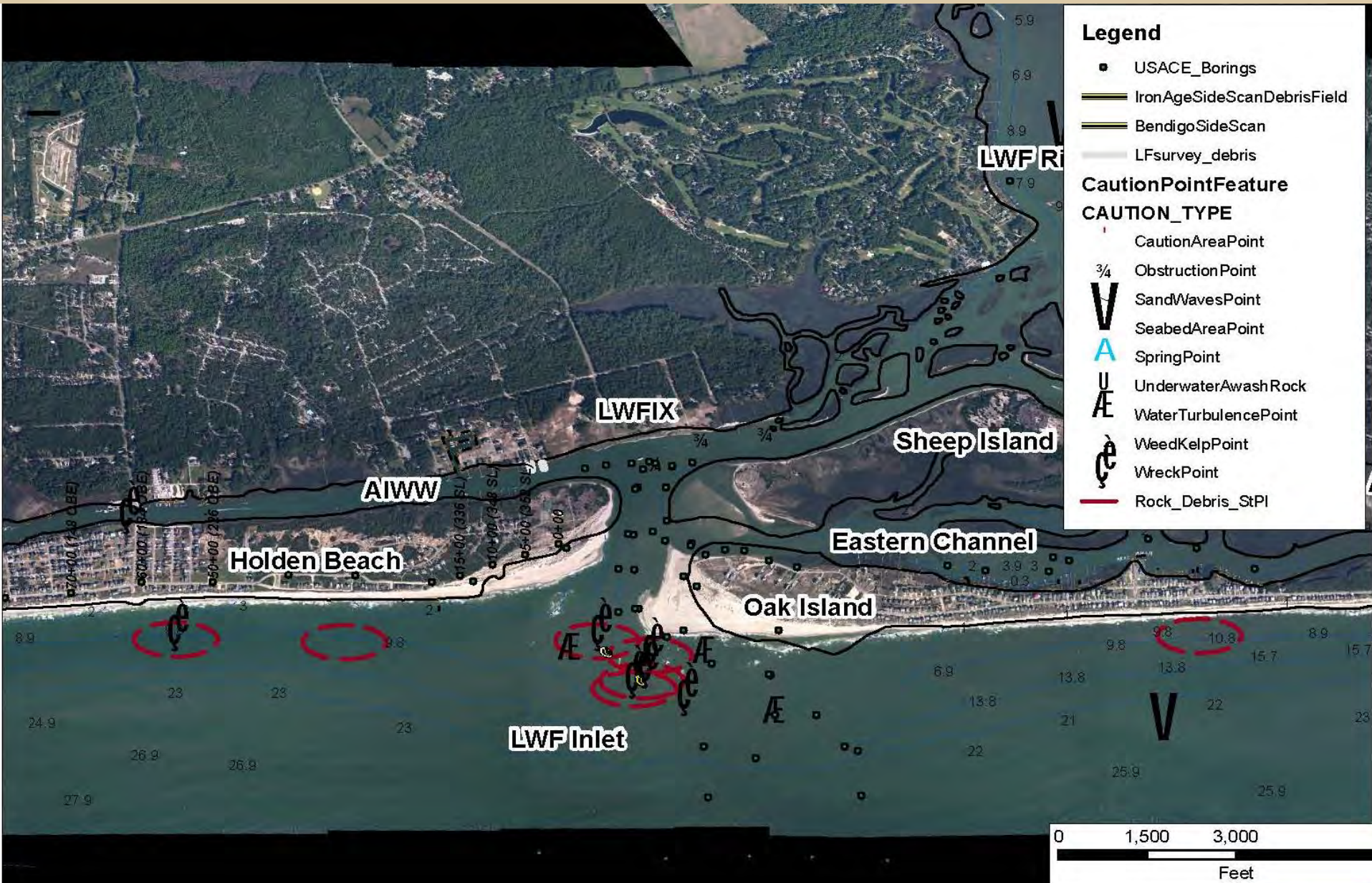
CLIENT:
BRUNSWICK COUNTY
 P.O. BOX 249
 BOLIVIA, NC 28422

PROJECT:
**LOWER LOCKWOODS FOLLY RIVER
 AQUATIC RESTORATION PROJECT**

DRAWING TITLE:
**EASTERN CHANNEL
 DREDGING PROJECT PLAN**

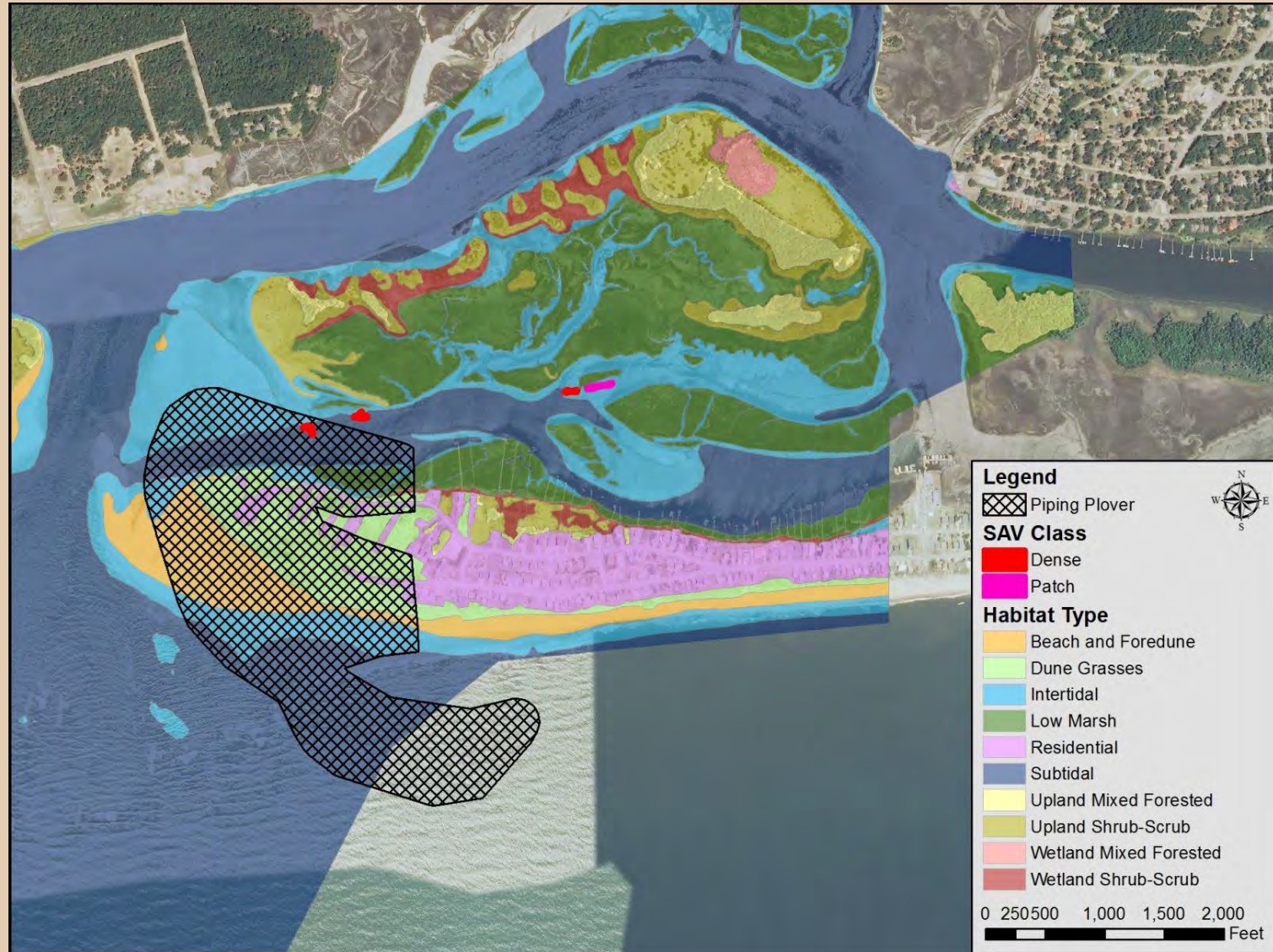
SCALE:	AS SHOWN	<table border="1"> <tr> <td>NO.</td> <td>02</td> </tr> </table>	NO.	02
NO.	02			
DATE:	27 MAY 08			
DESIGNED BY:	RSB			
APPROVED BY:	JWP			
PROJECT NO.:	2883			

Cultural Resources



Past Work/Existing Data

Existing Natural Resources



Past Work/Existing Data

Piping plover and other shorebirds

Mark Whitaker photographed this Wilson's Plover on 19 July 2012 at Oak Island - West End, North Carolina.



Photo: June 2008

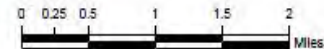
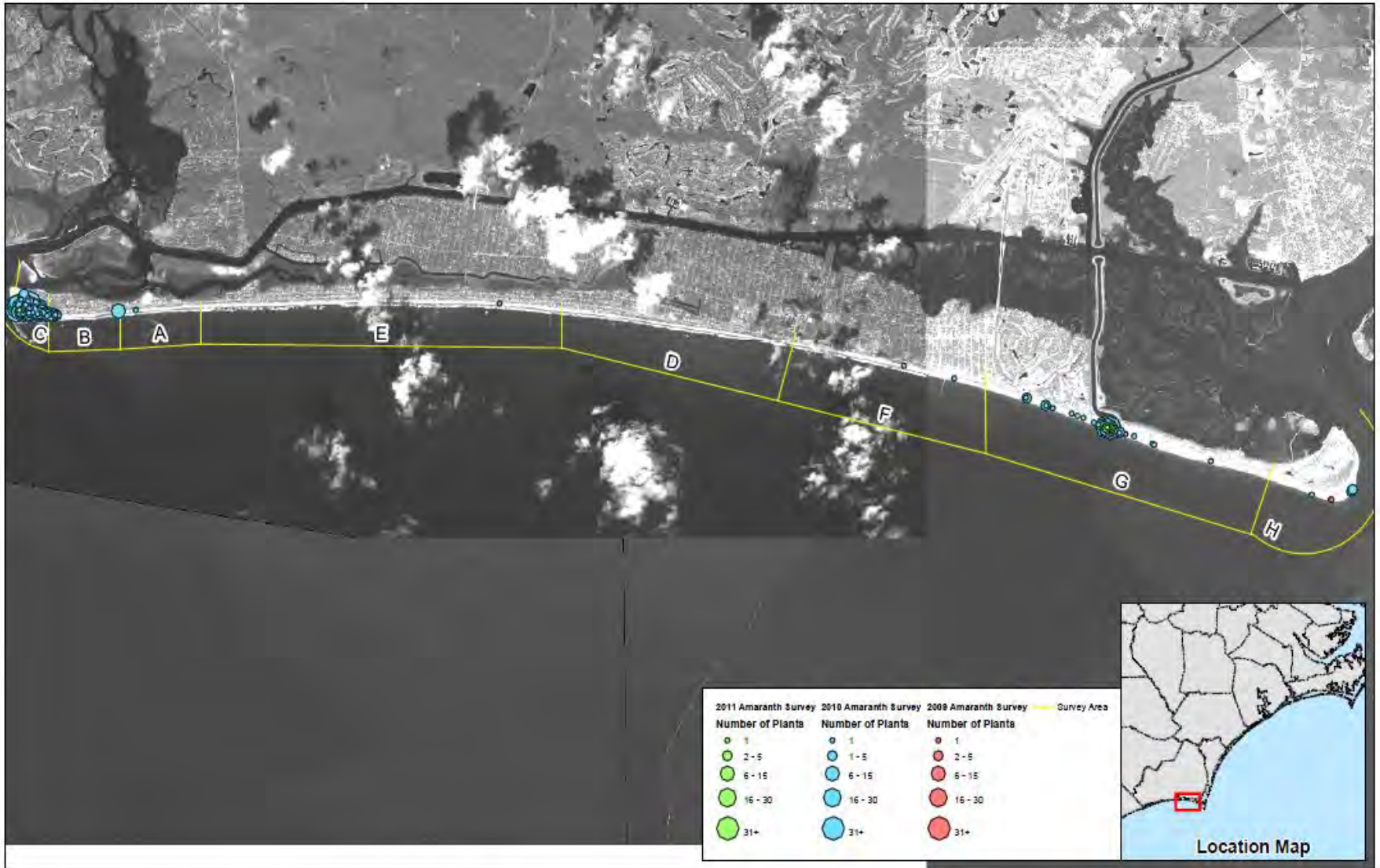
Sea Turtle Nesting

Beach	Year	Species	Nesting Activity		Total Relocated
			False Crawls	Nests	
Holden Beach	2010	Cc; Dc (1); Cm(1)	31	29	24
	2009	Cc	9	23	20
	2008	Cc	30	38	24
	2007	Cc	13	18	13
	2006	Cc	30	28	9
Oak Island	2010	Cc	44	57	3
	2009	Cc	67	56	1
	2008	Cc	52	76	0
	2007	Cc; Cm (1)	22	57	0
	2006	Cc	47	71	1
Caswell Beach	2010	Cc	71	49	21
	2009	Cc	30	27	9
	2008	Cc	57	91	25
	2007	Cc	14	39	7
	2006	Cc	43	75	9

Note: Cc – *Caretta caretta* (loggerhead sea turtle); Cm – *Chelonia mydas* (green sea turtle); and Dc – *Dermochelys coriacea* (leatherback sea turtle).

- Based on 2006-2010 data, the earliest first crawl was reported in 13 May and the latest crawl was recorded on 29 August.
- Critical habitat includes nearshore reproductive habitat
- Pipeline and dredging window will avoid nesting sea turtles

Seabeach Amaranth



Seabeach Amaranth

Beach	Sub-Part	Year																				Total
		(Reach)	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	
Oak Island / Caswell Beach	A	45	96	299	416	231	87	349	7	5	15	197	150	0	1	20	0	0	0	1	0	1,919
	B	839	181	1,336	3,328	1,092	438	3,030	4	2	15	216	135	4	78	18	0	0	0	34	0	10,750
	C	2,264	5,826	2,774	884	660	74	1,987	4	2	33	0	17	0	13	253	105	51	40	1,337	1	16,325
	D							1	0	0	0	36	916	0	7	33	8	0	0	0	0	1,001
	E								0	0	2	83	10	5	14	16	1	3	1	0	0	135
	F								0	0	0	0	3	1	43	20	0	11	0	2	0	80
	G								0	0	1	9	36	1	5	1	0	0	21	188	15	277
	H								0	0	0	1	0	0	13	101	2	0	2	14	0	133
	TOTAL	3,148	6,103	4,409	4,628	1,983	599	5,367	15	9	66	542	1,267	11	174	462	116	65	64	1,576	16	30,620

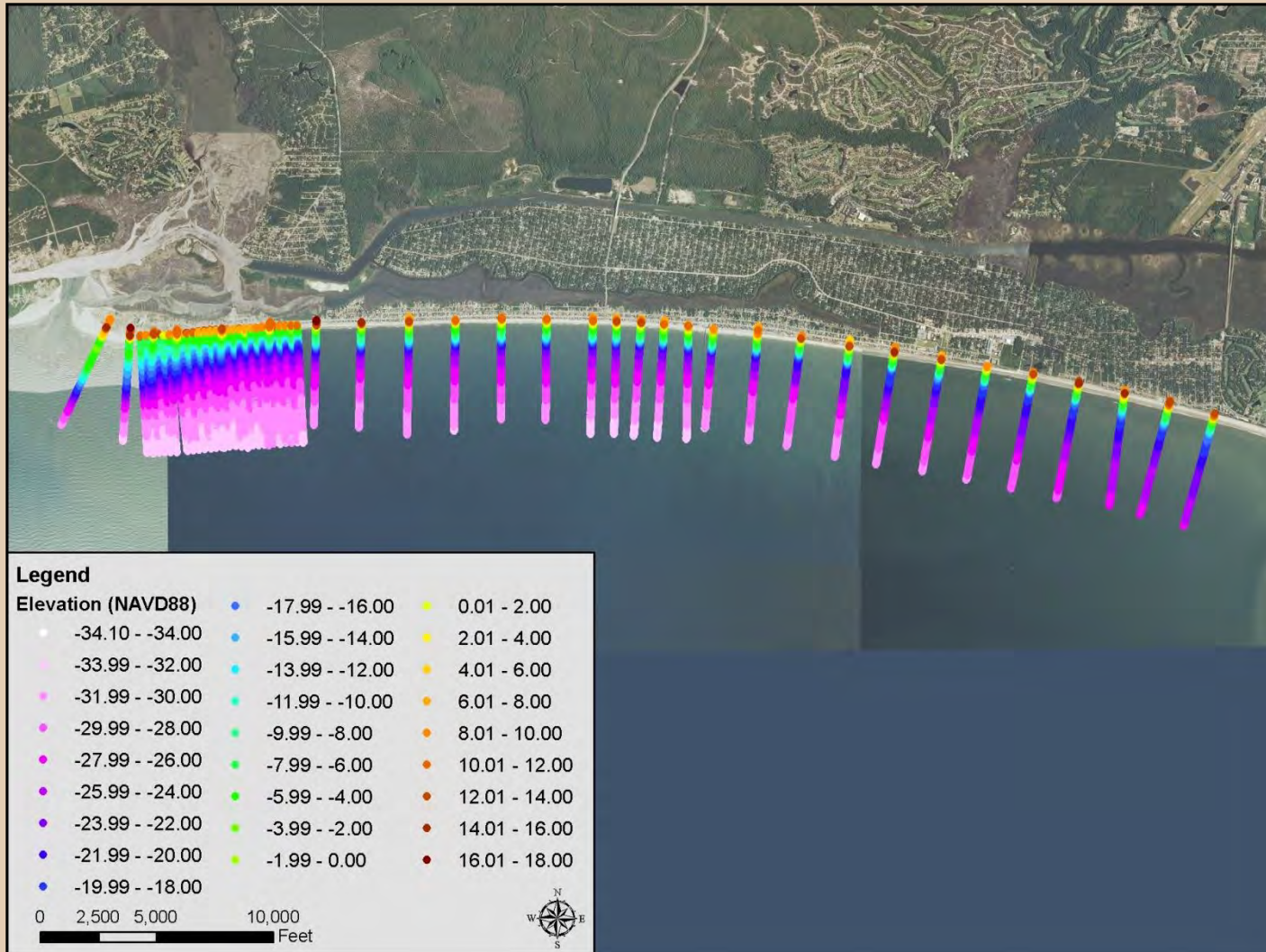
Source: Doug Piatkowski, USACE Civil Works, February 2012

NOTES

	= Not surveyed
^ ^ ^	= Count combined in reach above
	= Year of hurricane impact
	= Count exceeding 1,000 Amaranthus

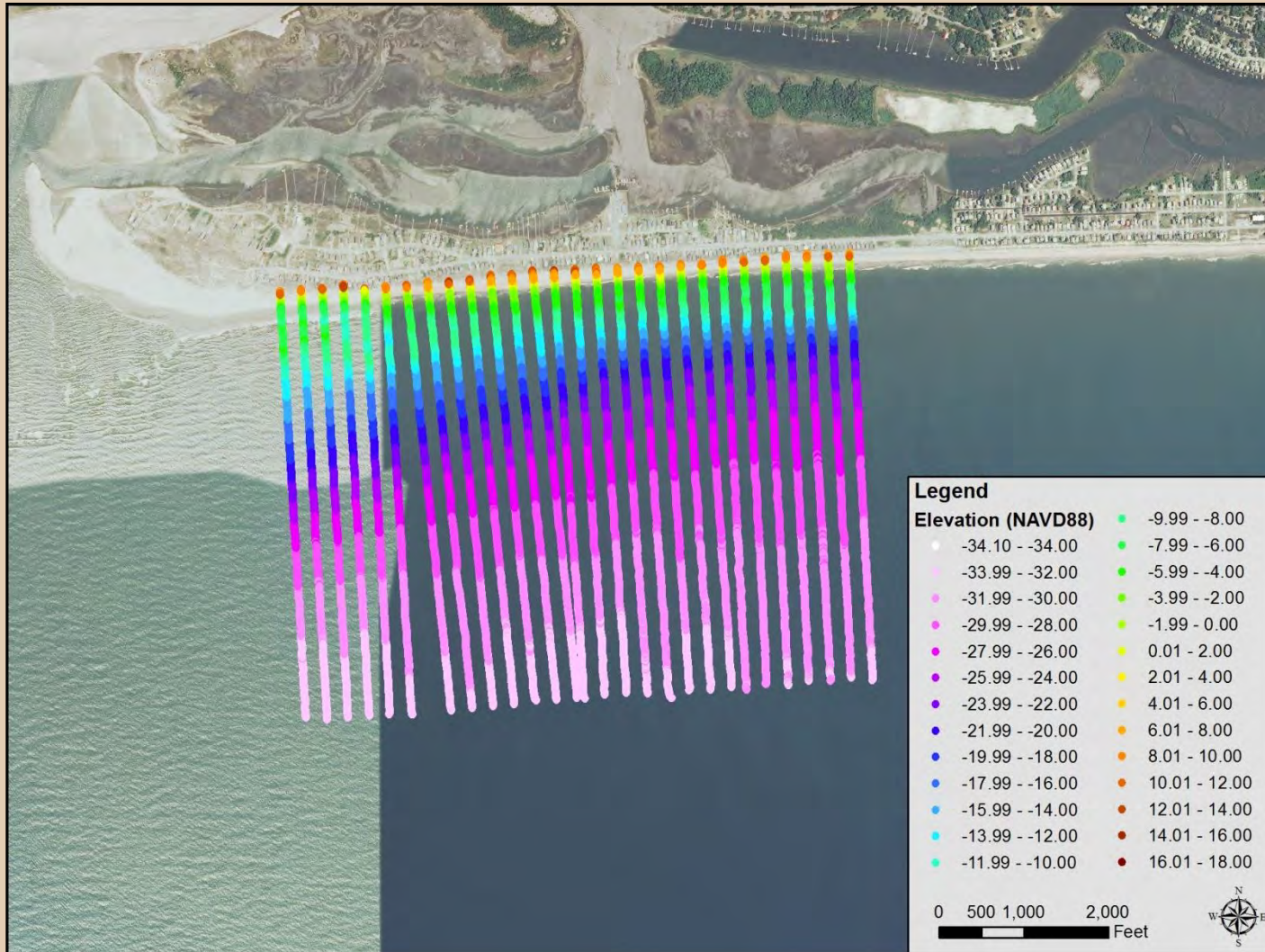
New Work Being Completed

Profile Data – Oak Island



New Work Being Completed

Profile Data – Oak Island



New Work Being Completed

Bathymetry Data – Eastern Channel



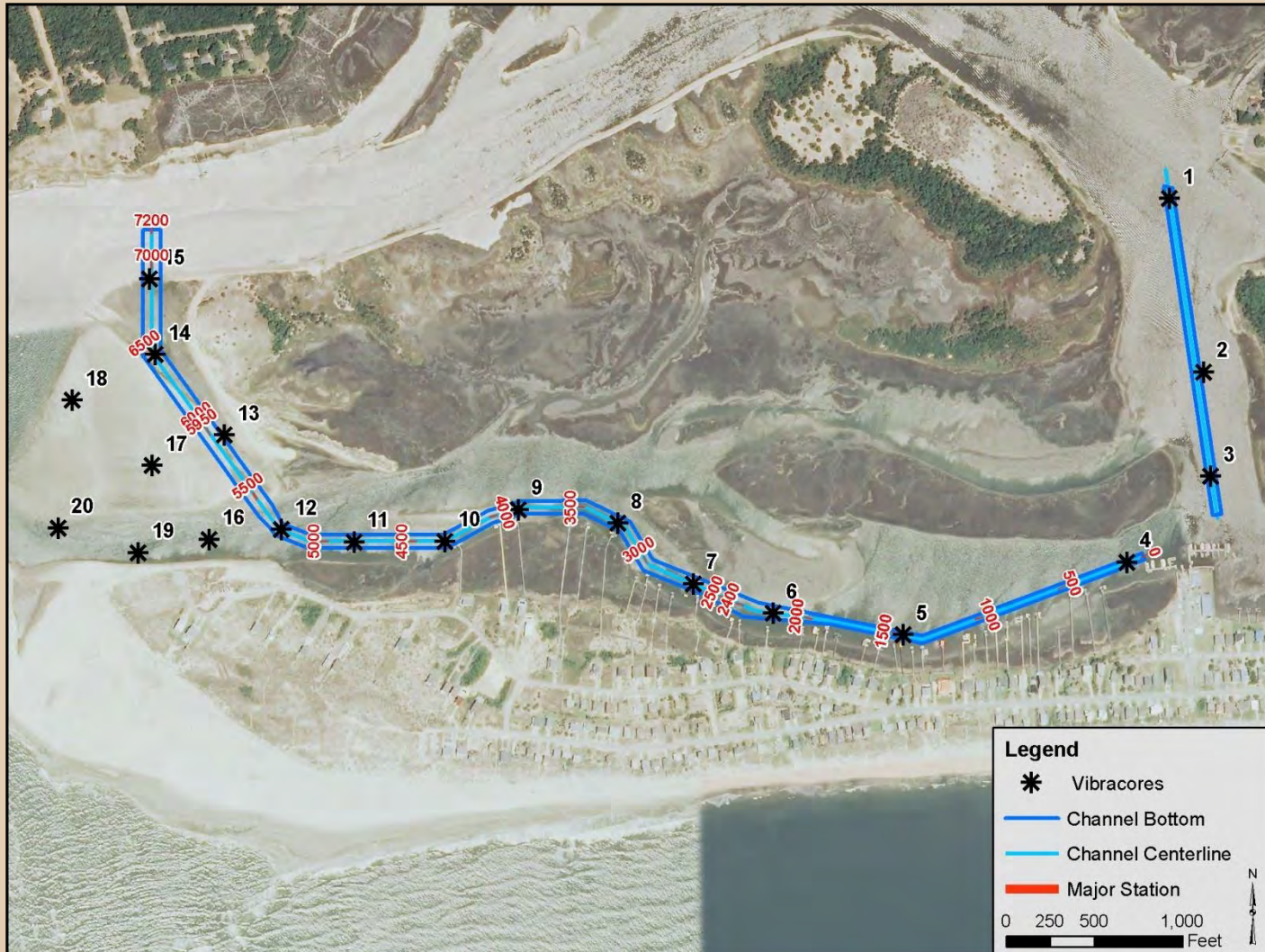
New Work Being Completed

Native Beach Data – Oak Island

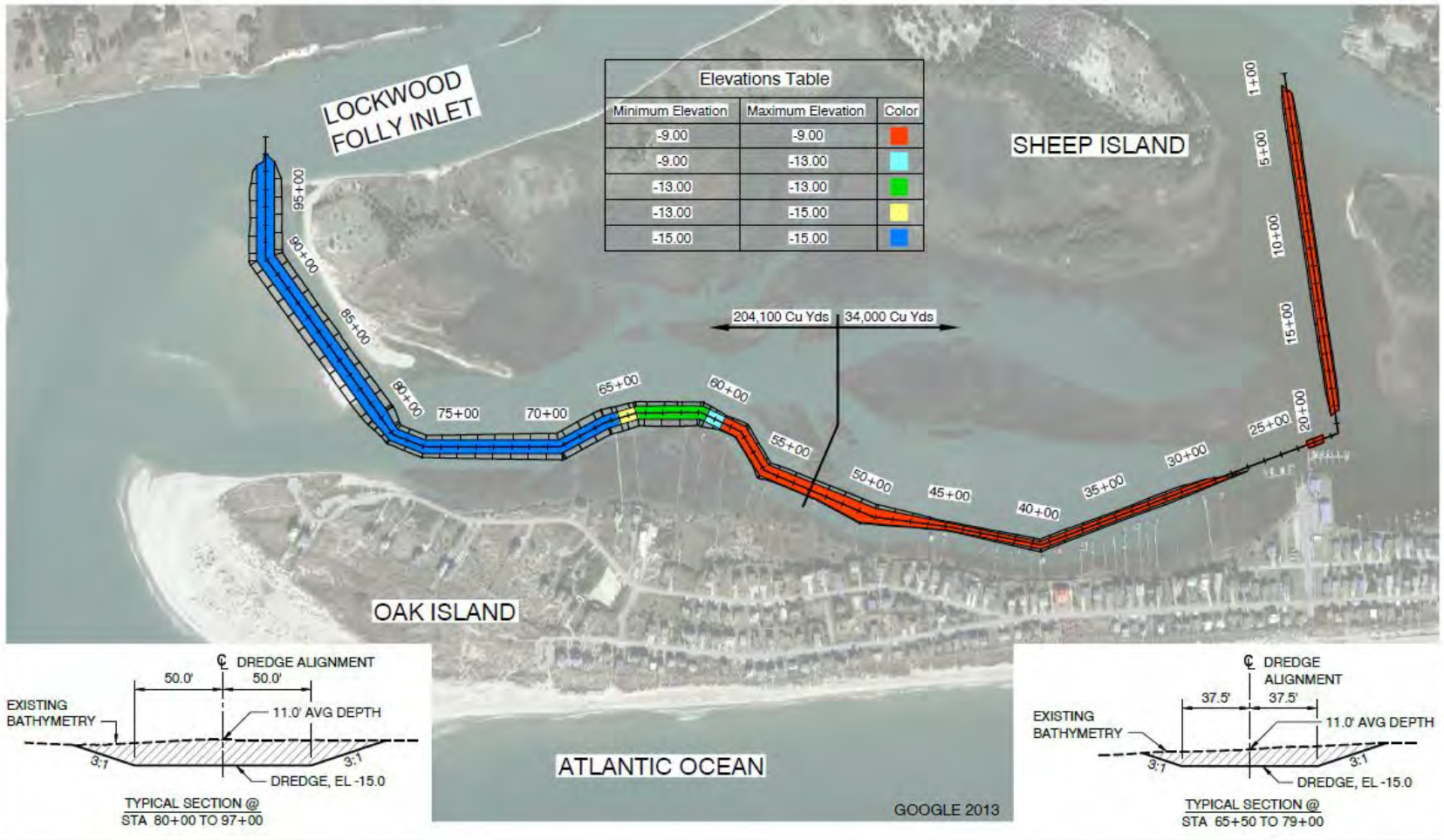
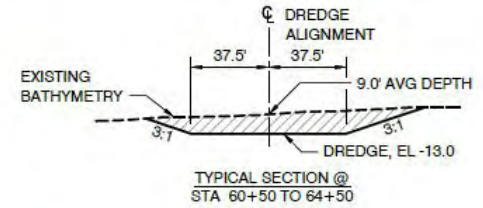
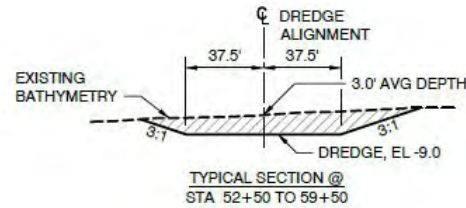
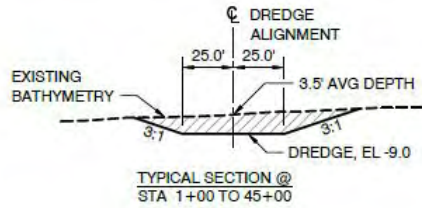


New Work Being Completed

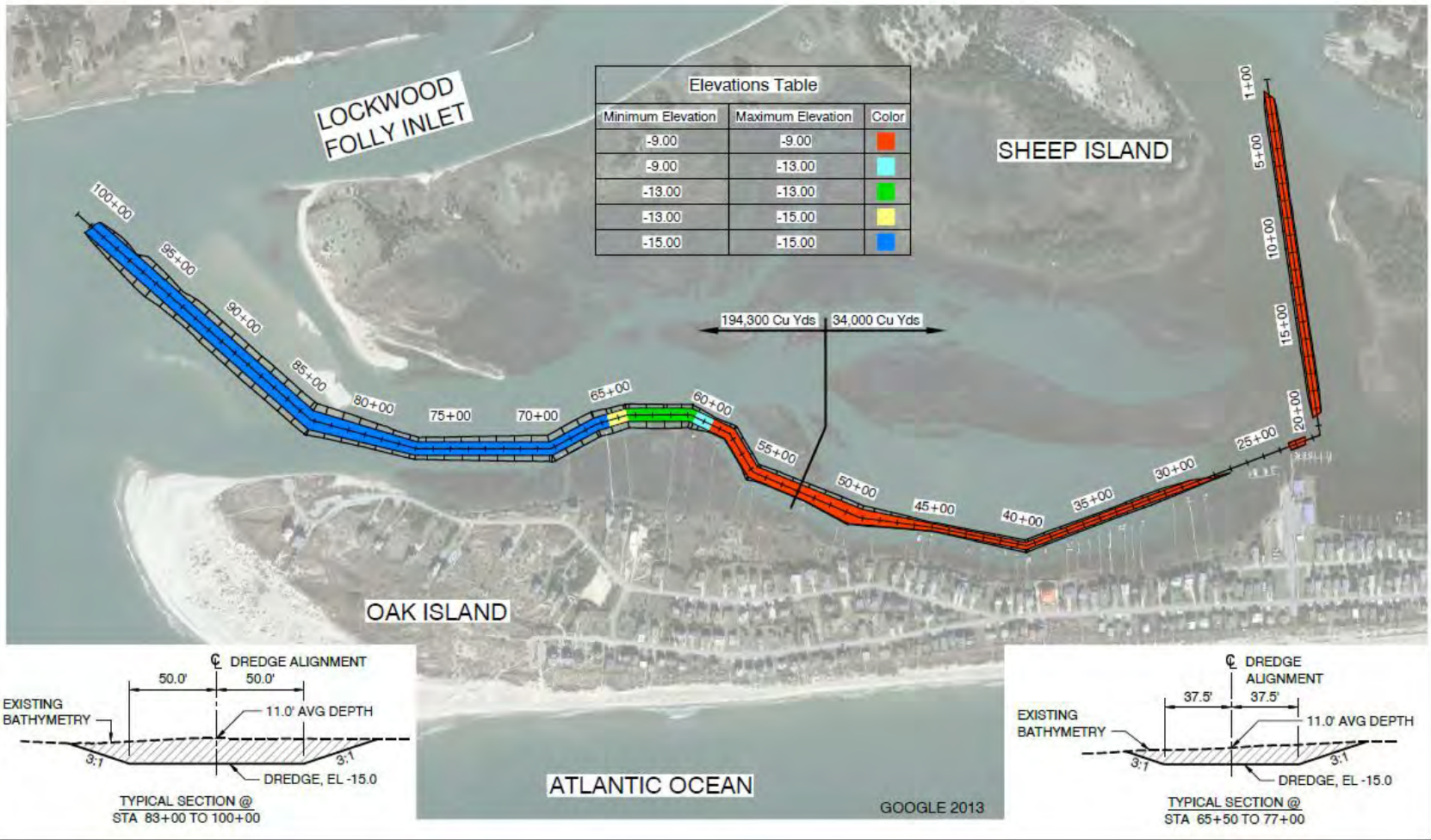
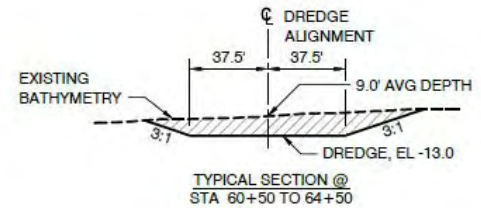
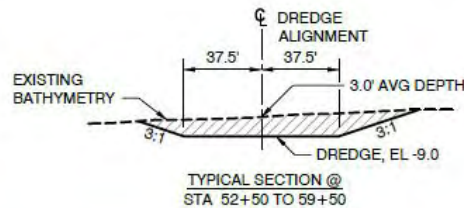
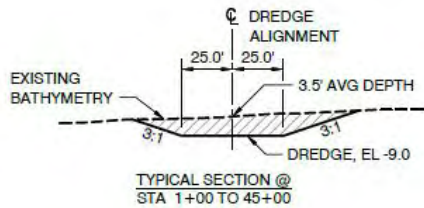
Vibracore Data – Eastern Channel



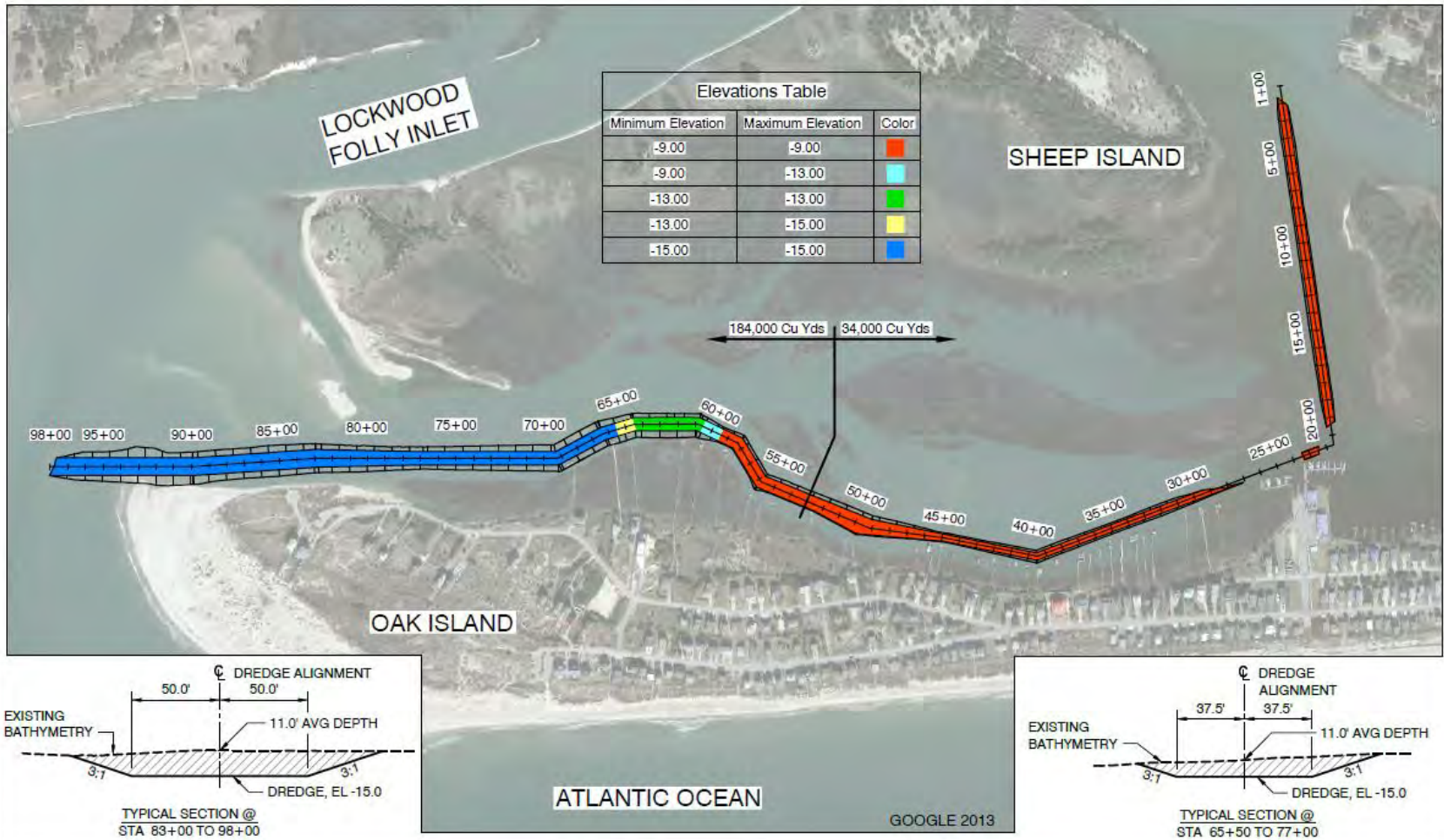
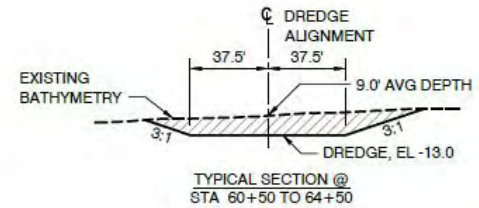
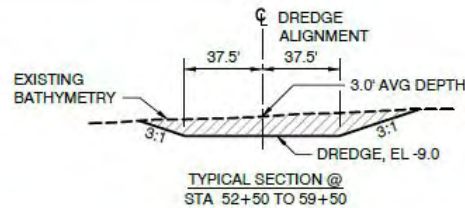
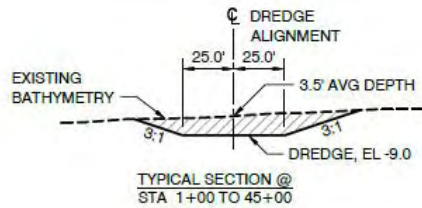
Options Under Consideration – Dredging Option 1



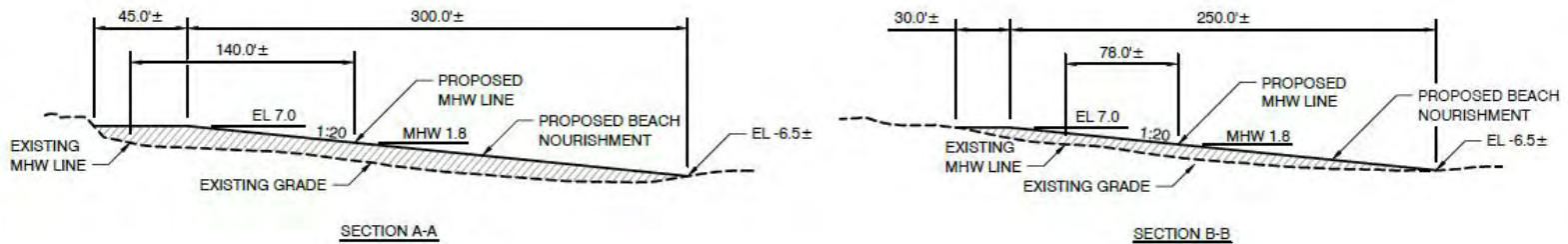
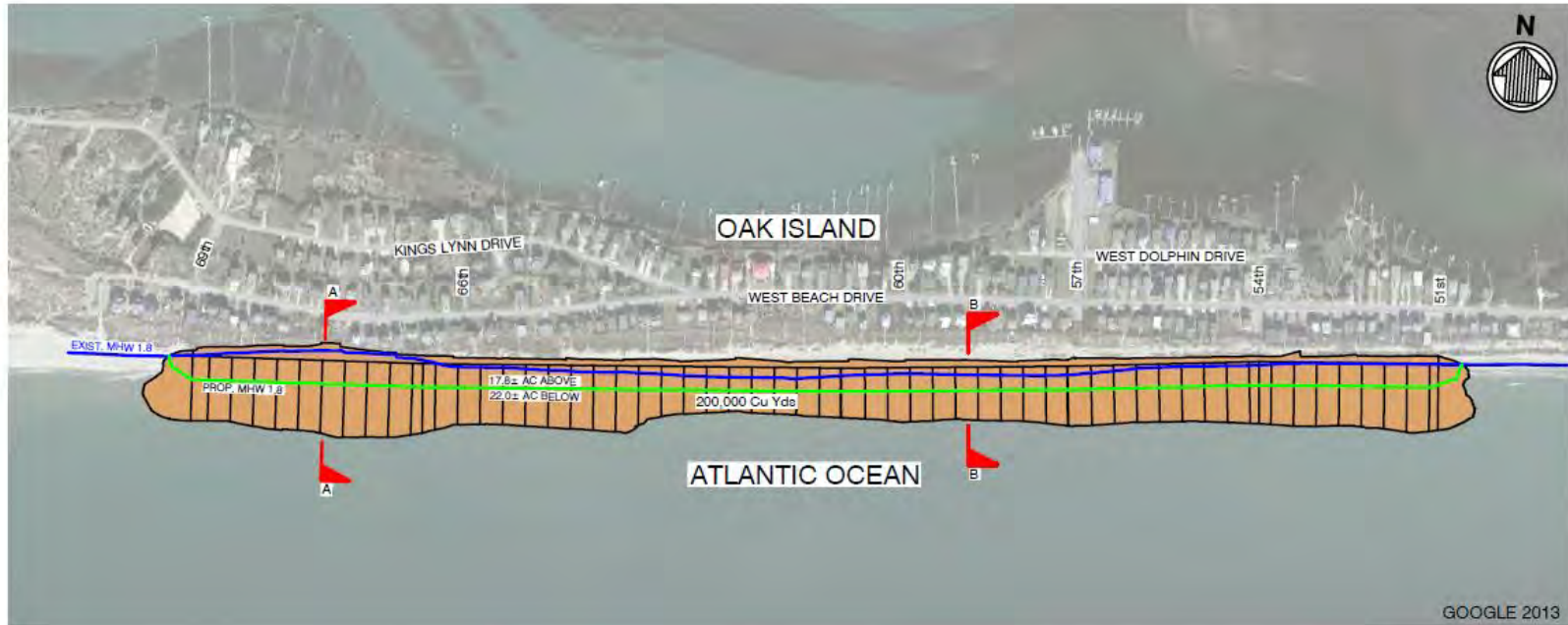
Options Under Consideration – Dredging Option 2



Options Under Consideration – Dredging Option 3

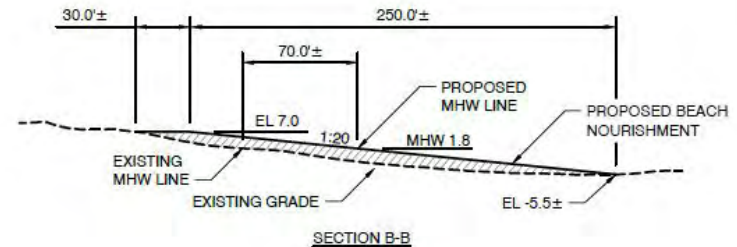
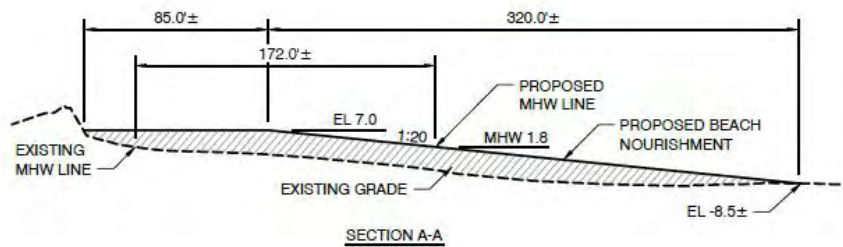


Options Under Consideration – Nourishment Option 1



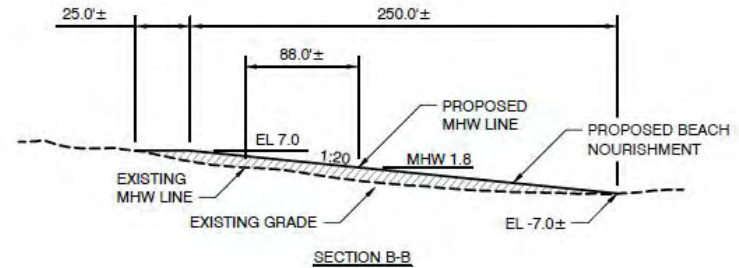
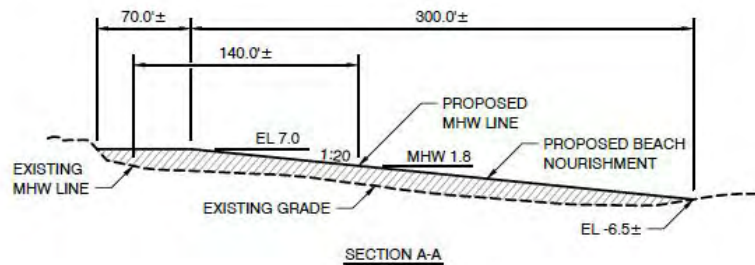
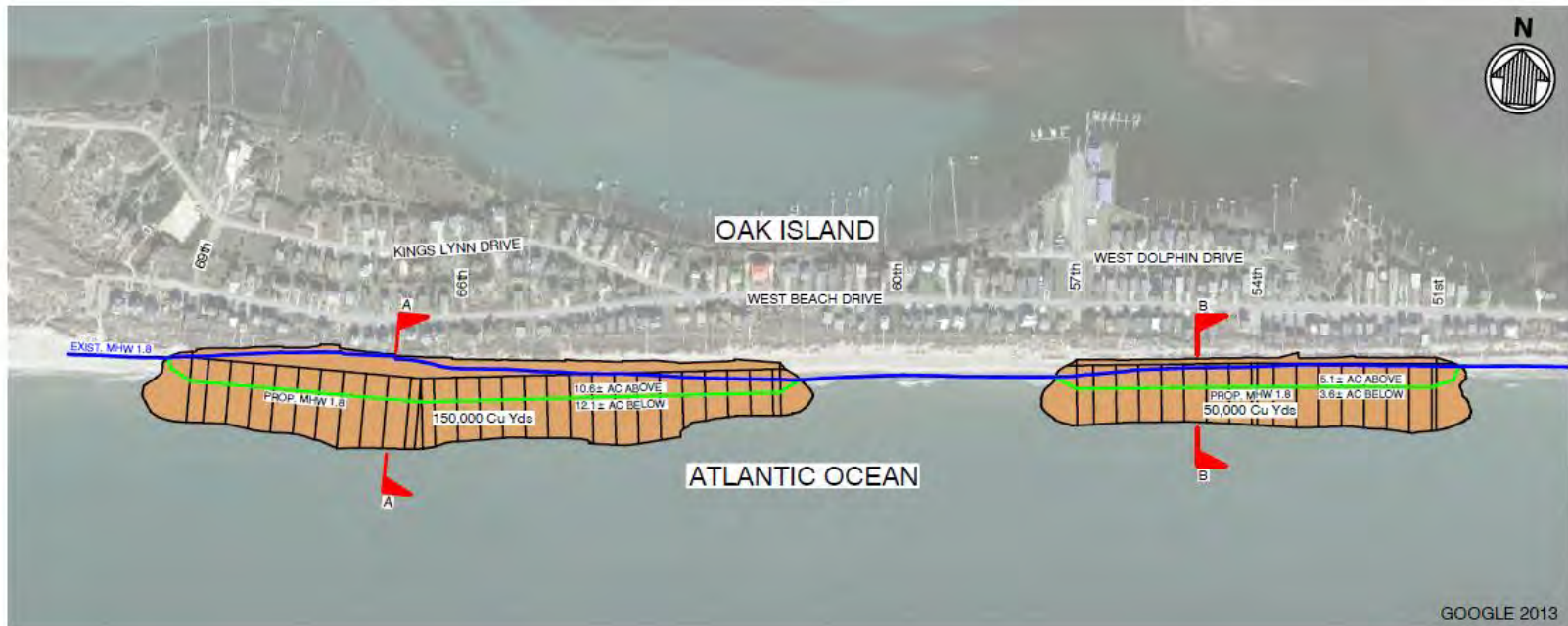
BEACH NOURISHMENT - OPTION 1

Options Under Consideration – Nourishment Option 2



BEACH NOURISHMENT - OPTION 2

Options Under Consideration – Nourishment Option 3

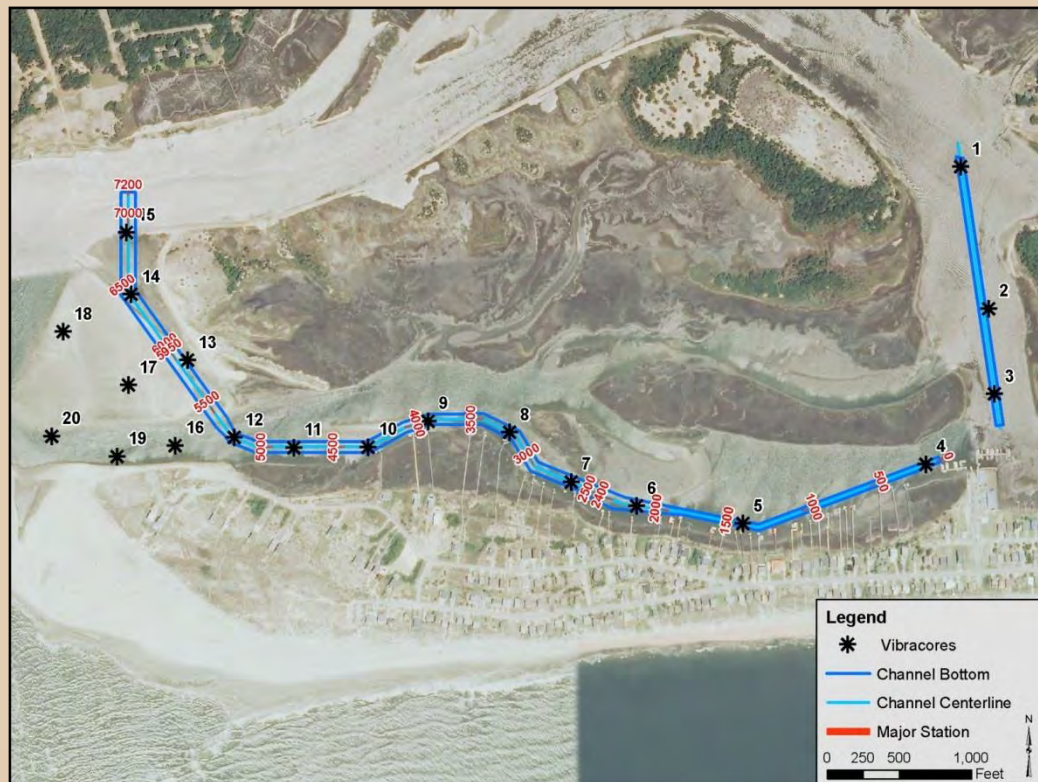


BEACH NOURISHMENT - OPTION 3

New Vibracore Observations

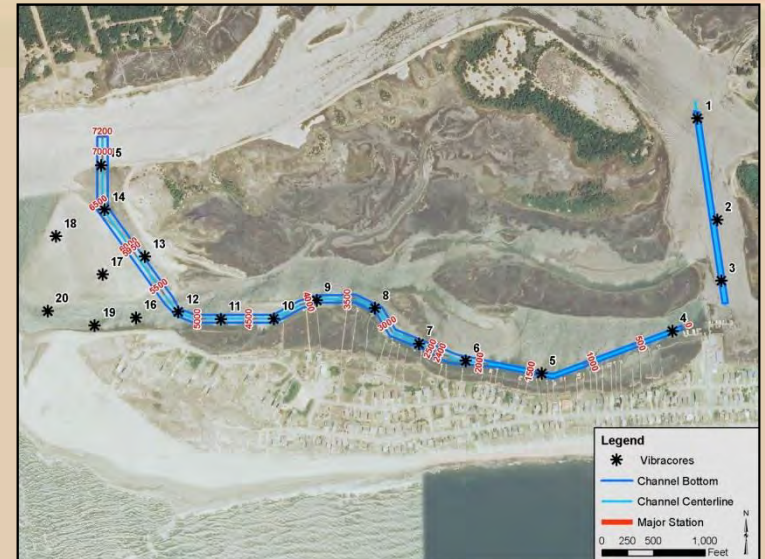
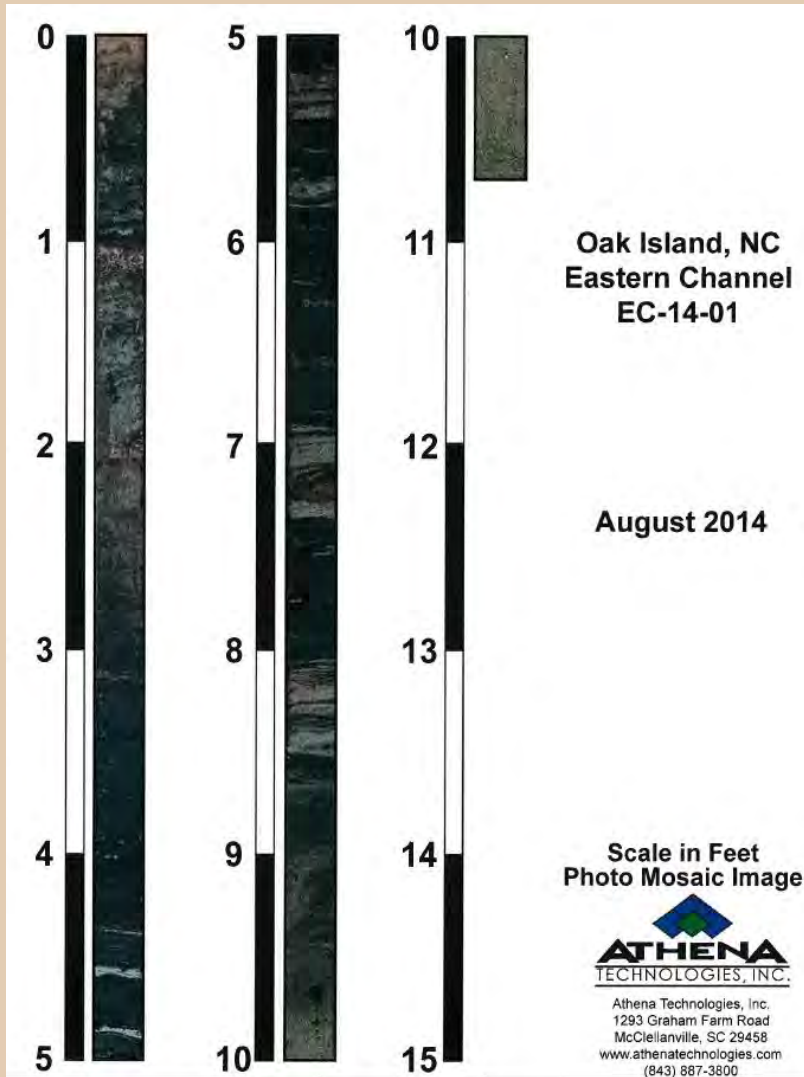
Hot off the Press

- Initial review of logs/photos confirms previous work
- Transition zone around Vibracore 7
- Extreme northwest channel option 1 may have more fines – lab work needed



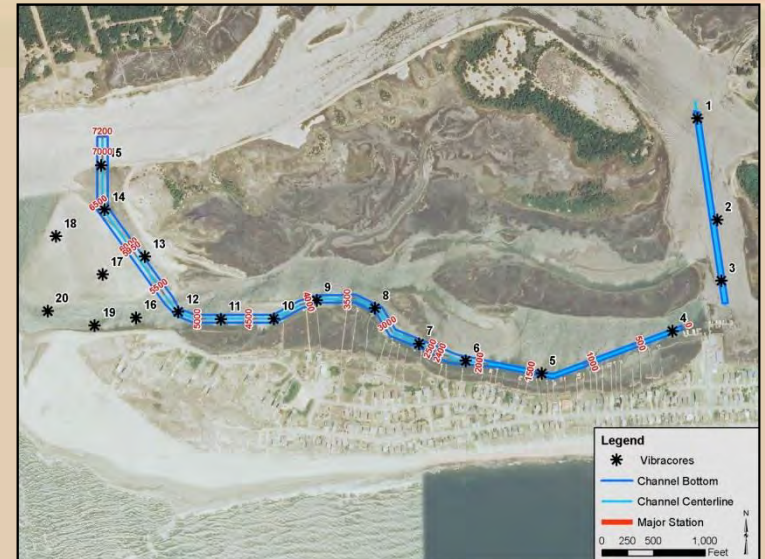
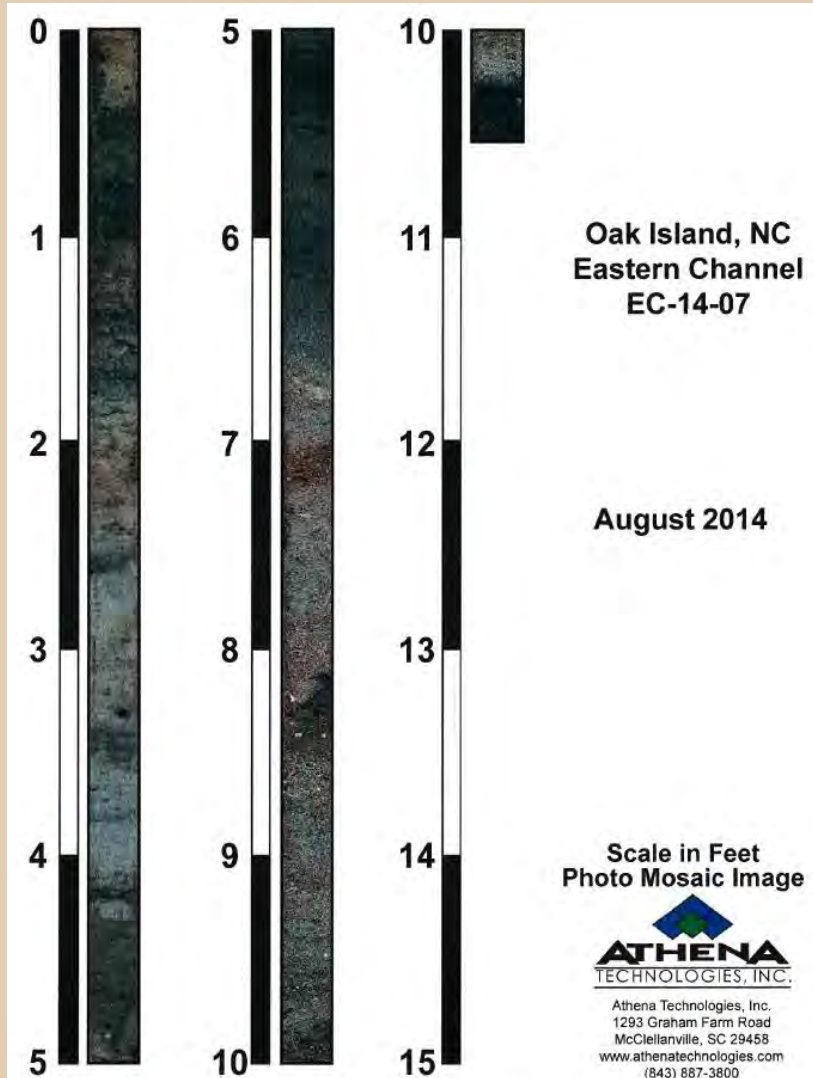
New Vibracore Observations

Vibracore Photos



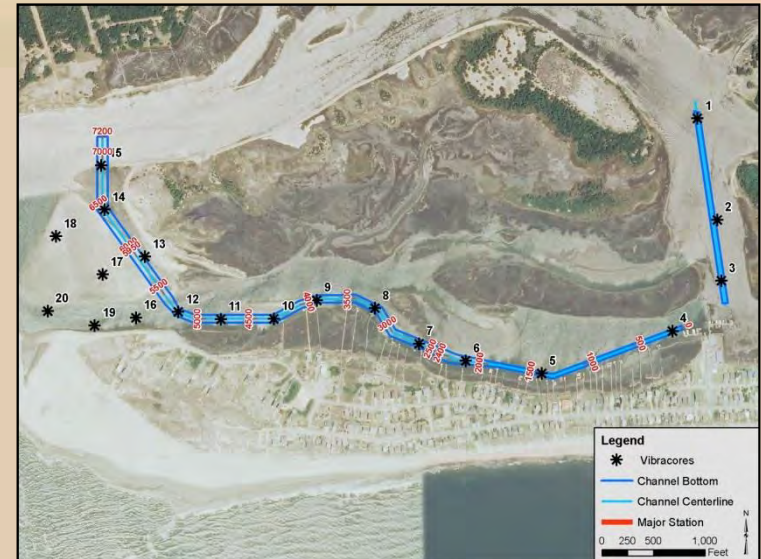
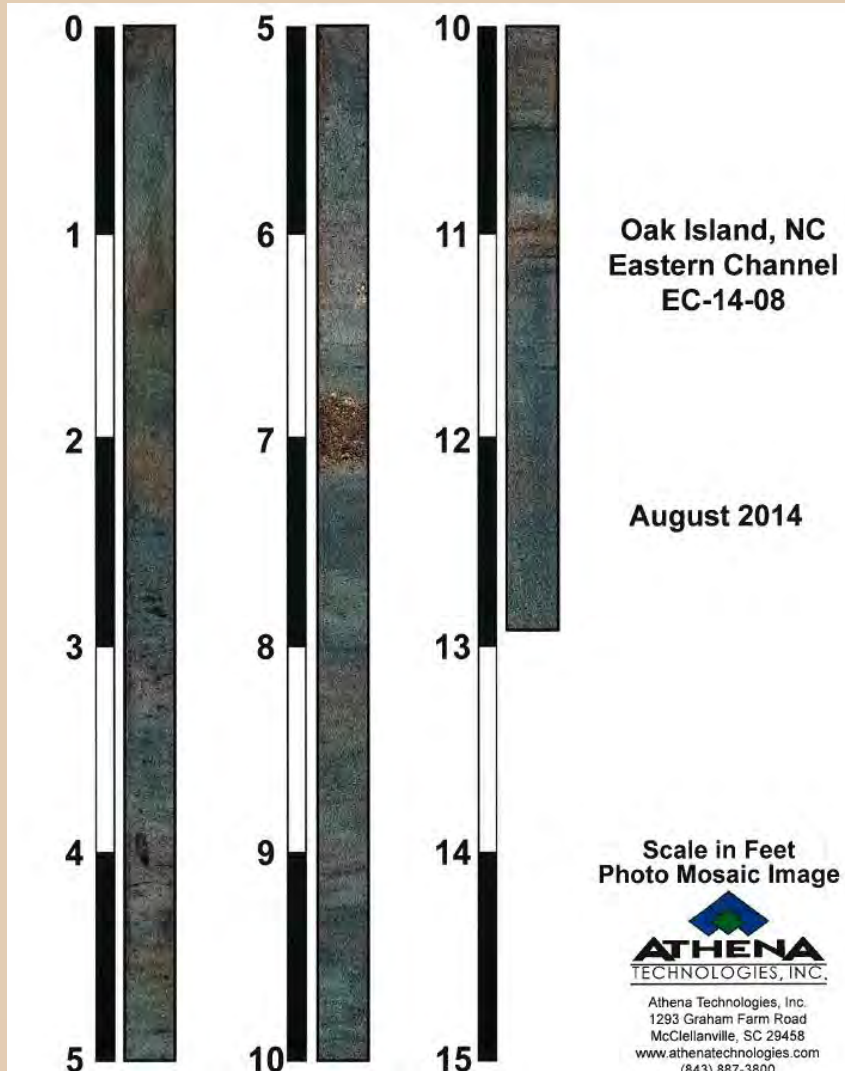
New Vibracore Observations

Vibracore Photos



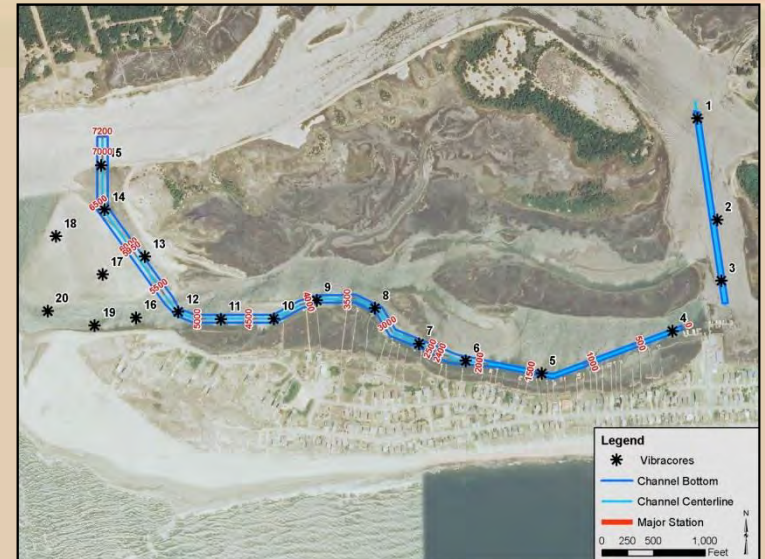
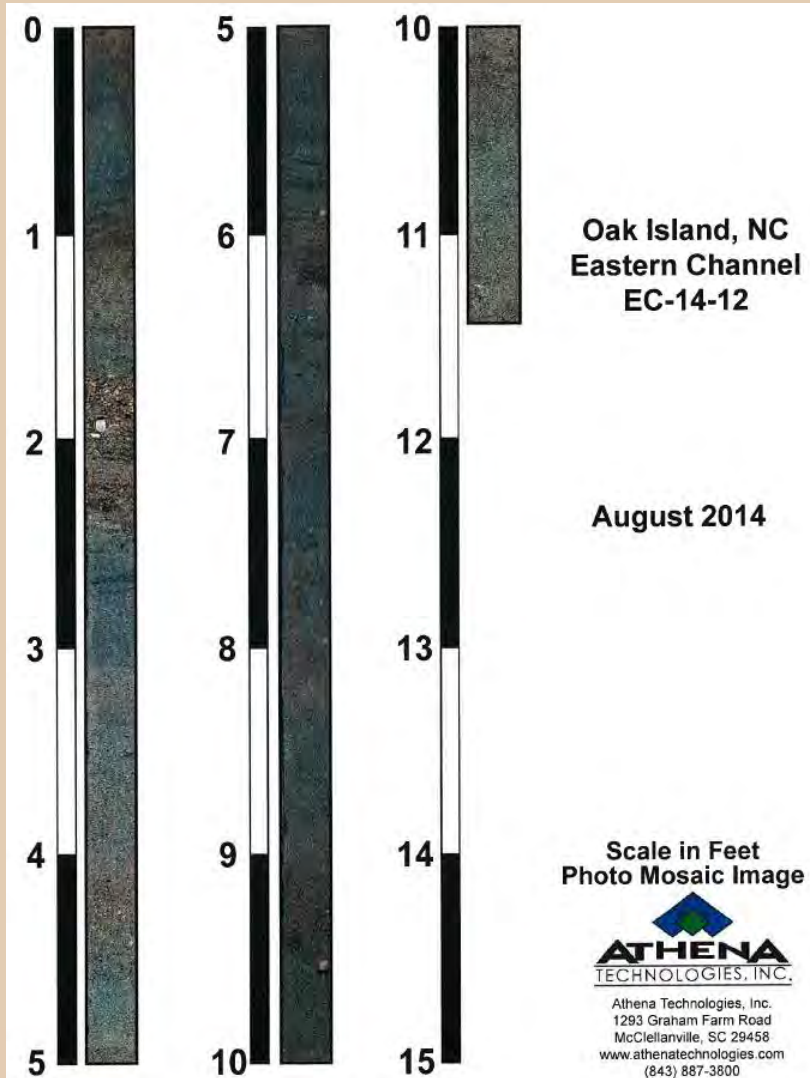
New Vibracore Observations

Vibracore Photos

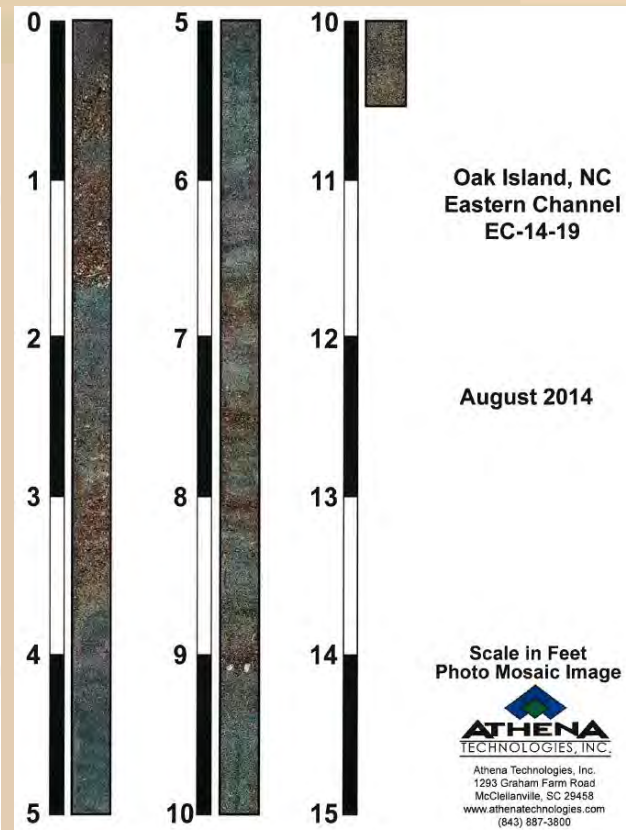
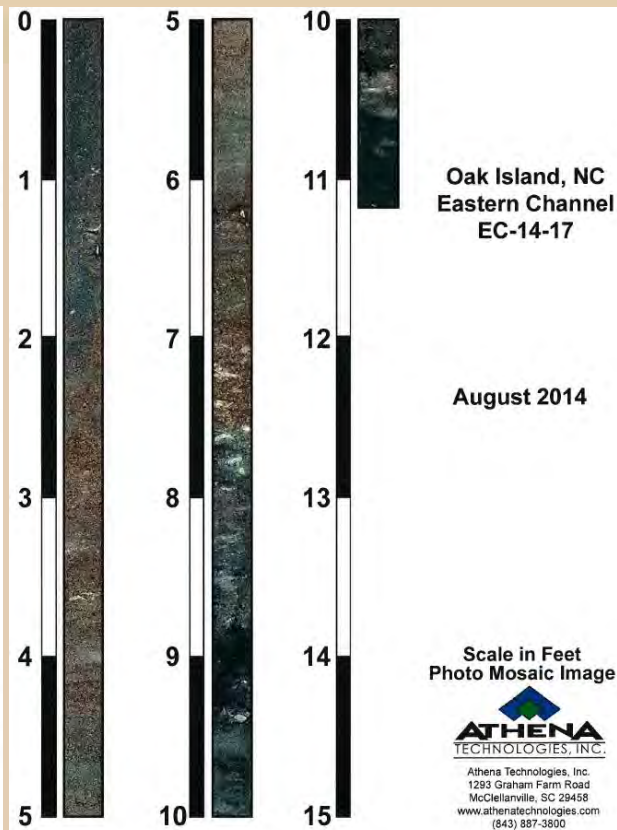
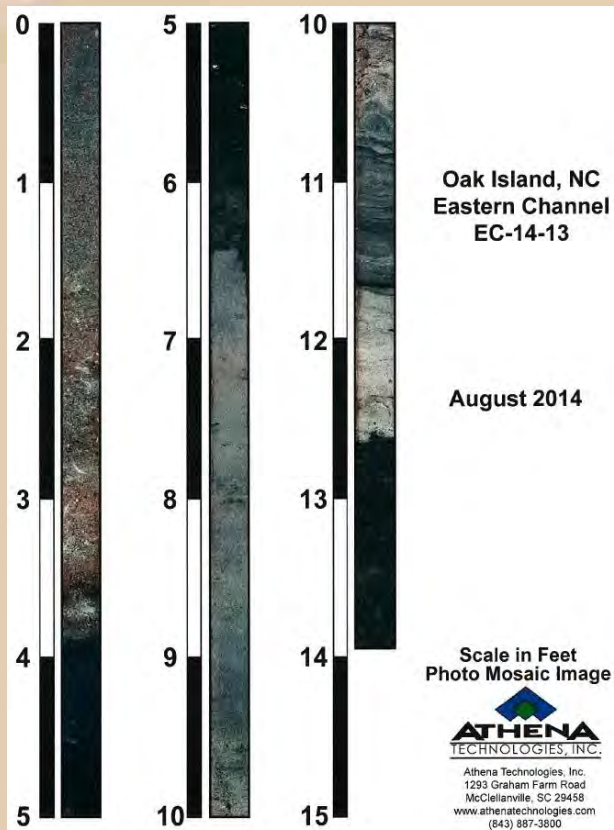


New Vibracore Observations

Vibracore Photos



New Vibracore Observations

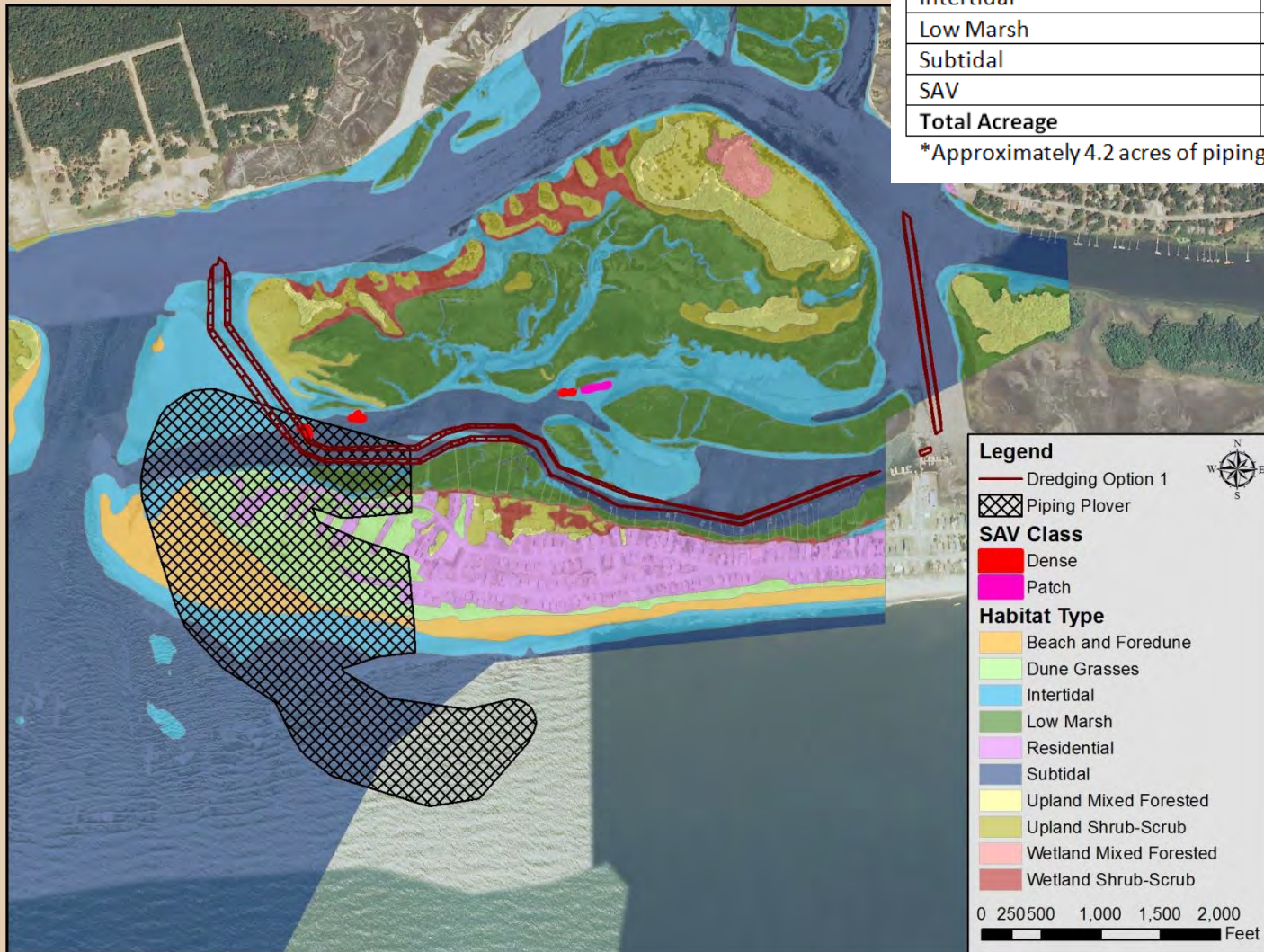


Criteria to Be Applied

- All criteria will be checked and best option selected
- Navigation criteria should apply since this is a navigation project and the channel was historically dredged (fines <10%)

Environmental Concerns of Various Options

Dredging Option 1

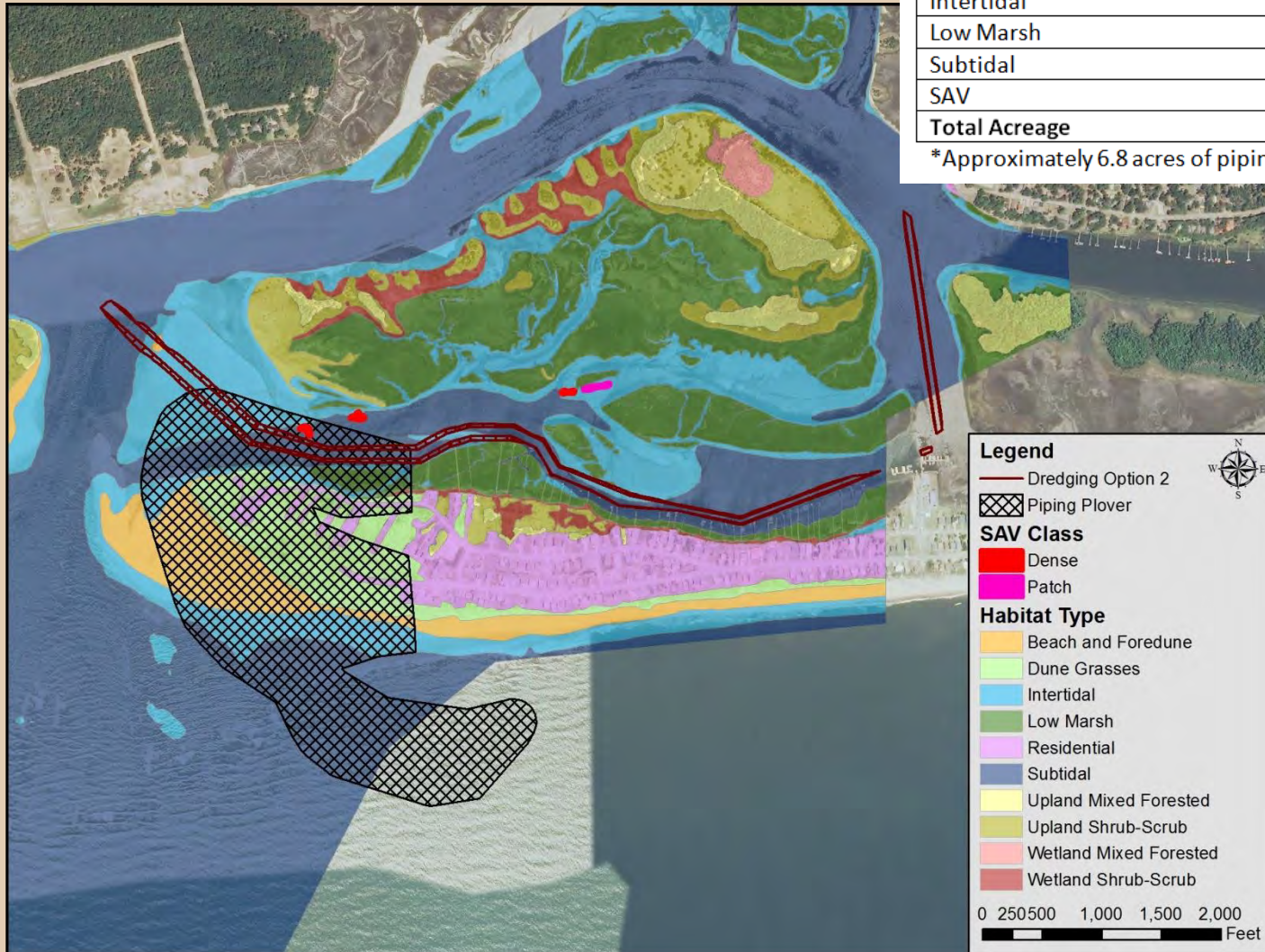


Dredging Option 1	
Habitat Type	Acreage Impacted
Beach and Fore-dune	0
Intertidal	7.69
Low Marsh	0.02
Subtidal	14.21
SAV	0.06
Total Acreage	21.98

*Approximately 4.2 acres of piping plover critical habitat is affected.

Environmental Concerns of Various Options

Dredging Option 2



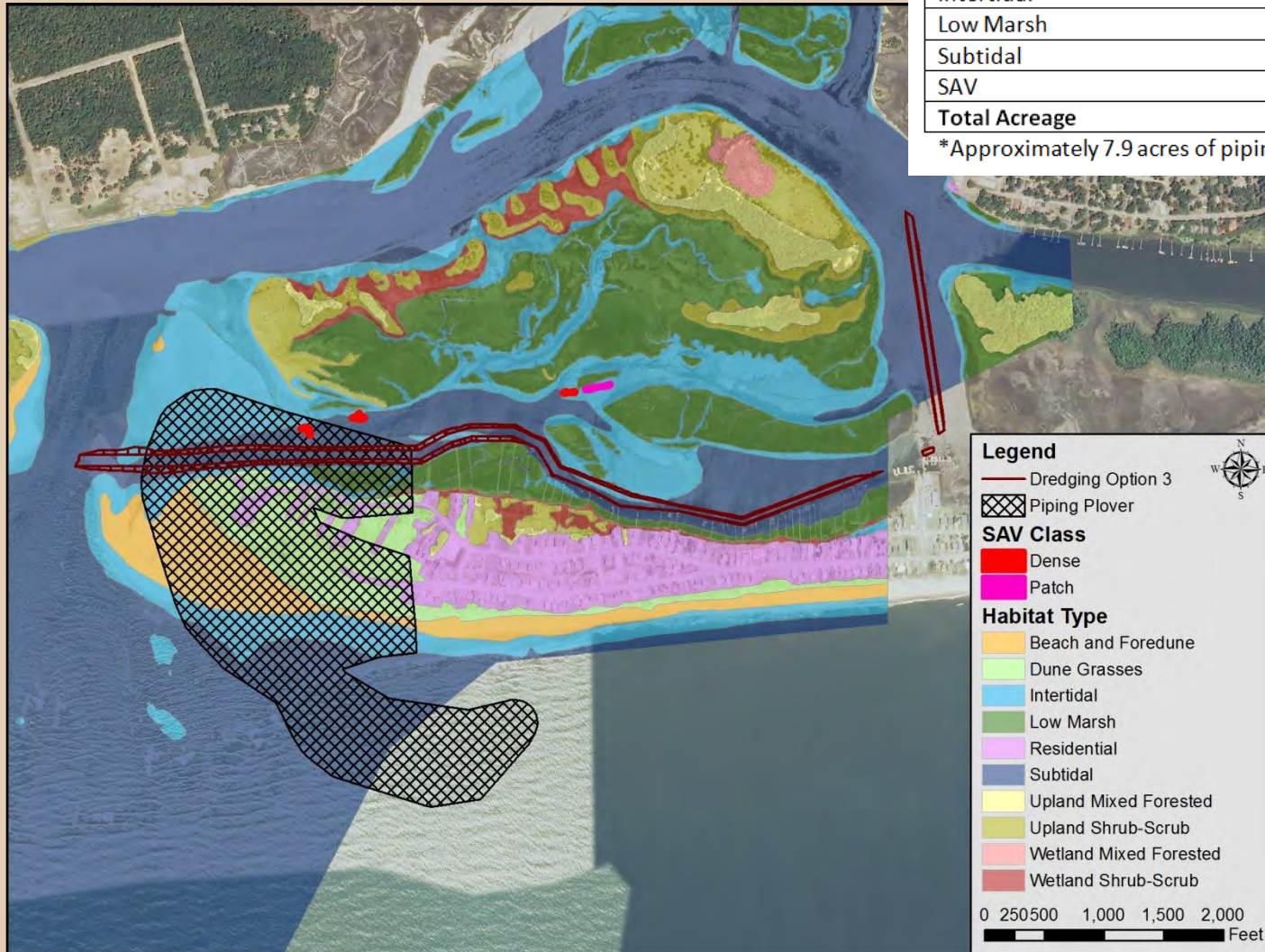
Dredging Option 2

Habitat Type	Acreage Impacted
Beach and Fore-dune	0.18
Intertidal	6.31
Low Marsh	0.02
Subtidal	16.25
SAV	0
Total Acreage	22.76

*Approximately 6.8 acres of piping plover critical habitat is affected.

Environmental Concerns of Various Options

Dredging Option 3



Essential Fish Habitat



- Option 1 footprint has potential to impact 0.06 acres of SAV (unconfirmed presence)

Permitting

CAMA Major Permit

- Project located in an AEC
- Previous scoping meeting in 2007 and 2009

General Permit 291

- Minimal dredging and placement rate
- Previous consensus determined navigation channel can be accomplished with GP 291
- Likely to Not Adversely Affect Determination (environmental dredging window, avoid EFH affects)

Overall Project Alternatives are extremely limited

Project Schedule

- **Receive Vibracore Data – Mid-October**
- **Preliminary Design/Submit Permits – Late Oct/Early Nov**
- **Final Design/Advertise Project – Early-Mid December**
- **Receive Permits – Late December- Early January**
- **Bid Opening – Mid - Late January**
- **Construct Project – Mid Feb – End of March/April**

**** Need to Confirm with USACE concerning Sheep Island CDF availability**

Project Funding

Total Project Budget = \$3.545 M

<u>Design, Permitting and Construction Observation Services</u>				
Engineering (Design and Construction Observations)			\$145,610	
Surveys (Channel and Placement Area)			\$29,992	
Environmental and Permitting			\$35,588	
Geotechnical Investigations (Assumes 20 - 15' Vibracores with 4 Samples each)			\$63,735	
Total Design and Construction Observation Costs			\$274,925	
<u>Construction Costs</u>				
Mob/Demob	1 LS	\$750,000	\$750,000	
Beach Compatible Dredging and Placement	180,000 cy	\$10.00	\$1,800,000	
Non-Beach Compatible Dredging and Placement	20,300 cy	\$7.50	\$152,250	
Non-Beach Compatible Placement CDA Fees	20,300 cy	\$2.50	\$50,750	
Improvements to CDA	1 LS	\$55,000	\$55,000	
Total Construction Costs			\$2,808,000	
			\$3,082,925	
		Contingency	15%	\$462,439
Total Project Budget			\$3,545,364	

Project Funding

Total Project Budget = \$3.545 M

NC Division of Water Resources (DWR) – 50%

- Awarded the Town of Oak Island \$1.1M for construction of project
- Total request was for \$1.772M – DWR hopes to fund remaining \$672k in October

Brunswick County

- Board of Commissioner have funding request for \$500k – Decision will be made during next scheduled meeting

Town of Oak Island

- Remaining Balance – Range from \$1.27M - \$2.45M

Discussion

Thank You!



MINUTES
OAK ISLAND TOWN COUNCIL
REGULAR MEETING
July 8, 2014 – 6 P.M.
OAK ISLAND TOWN HALL

Present: Mayor Betty W. Wallace, Mayor Pro Tempore Jim Medlin, Councilors Danny Lee Kiser, Carol C. Painter, Loman Scott and Jeff Winecoff, Town Manager Steve Foster, Town Attorney Brian Edes and Town Clerk Lisa P. Stites, CMC.

Mayor Betty W. Wallace called the meeting to order at 6 p.m. Councilor Loman Scott gave the invocation and led the Pledge of Allegiance to the flag.

COUNCIL REPORTS (MAYOR AND COUNCIL)

Councilor Winecoff thanked the Parks and Recreation Department, Police and Fire who made Beach Day a success and then planned for a tropical storm or a hurricane.

Councilor Painter said at the June 19th Brunswick Beaches Consortium meeting, our Town Manager asked the group to consider supporting Oak Island's Lockwood Folly Eastern Channel Dredging/Restoration Project; the Consortium agreed and sent a letter to the Division of Water Resources. She also noted that the Par 3 Golf Course Ad hoc Committee has been meeting. She said the course is coming along nicely and is getting a lot of play. There will be a tournament in August. The Committee will also research what grants might be available that wouldn't require a match from the Town.

Mayor Pro Tempore Medlin also thanked everyone who made Beach Day a success. He said it was a busy week for everyone, especially the emergency services personnel. We lost no lives and for that we are grateful.

Councilor Scott noted that there was a complaint from a citizen about people on the beachfront setting off fireworks on the beachfront. He said he agreed. He showed some of the debris that landed on his roof two blocks from the beach. He asked to add a discussion of this at the next meeting.

Mayor Wallace also complimented staff for the Beach Day events. She also said that seeing so many American flags in town was very heartwarming.

ADJUSTMENT/APPROVAL OF THE AGENDA

Councilor Scott made a motion to suspend the rules to move an agenda item. Councilor Painter seconded and the motion passed unanimously. Mayor Pro Tempore Medlin moved New Business 1 to just before Public Comments. Mayor Wallace added Extension of the Audit Contract as Consent Agenda 2 and New Business 4: Direct Staff to Seek Local Legislation to Rescind the Extra Territorial Jurisdiction. The Closed Session was removed at the request of the Town Attorney. **Mayor Pro Tempore Medlin moved to approve the agenda as amended, Councilor Kiser seconded and the motion passed unanimously.**

PRESENTATIONS, PROCLAMATIONS AND RECOGNITIONS

Skip Cox, manager of the Beach Ambassador program, written presentation provided as follows: General Comments: As we are now into our 3rd month of existence, we remain pleased with the program's progress so far. The positive feedback that we receive from both residents and visitors is encouraging. Residents are particularly happy to see the program in place, and most people we approach thank us for our efforts. Number of trained ambassadors: We now have 34. Ten new ambassadors were trained on July 2nd. Beach patrol area: Within the last month, we segmented the West end of the island. We now have 9

patrolling sections, starting at McGlamery Street on the East end down to the Point on the West end. Patrol teams: We initially began the program with teams of two ambassadors per patrol, but due to the need for increased coverage with the addition of the West end, we are now allowing single patrols. Patrol Schedule: We still patrol Saturday through Monday, but due to the expected large holiday crowds, we asked our ambassadors to patrol any time during the week of the 4th and this week. We are still considering adding Fridays as the season progresses, but will train additional ambassadors before adding to the schedule. We also have a scheduling tool, designed by Darya Cowick (our UNC-W Summer intern), where ambassadors can schedule themselves and partner with others if they desire. Darya has been a very valuable asset to the ambassador program. Patrol times: We originally scheduled patrols for 4-6 p.m., however at the request of some ambassadors, we are now modifying patrol times to any time during the afternoon and evening. This will better accommodate their personal schedule as well as the ability to plan patrols around tide schedules. Ambassador patrol report: We have implemented a report process where ambassadors are asked to submit a report of an individual patrol. This allows us to build a data base of patrols so that we can track beach coverage, record ambassador hours, and maintain a photo gallery for documenting violations and for training purposes. It also gives the ambassador the opportunity to report specific incidents or violations so that the necessary departments can be notified and facilitate a timely resolution. Program issues: There are four key ordinances and one key item that ambassadors focus on during a patrol – A) Beach gear-Our new ordinance this year calls for ALL unattended beach gear to be removed from the beach from 8:30 p.m. – 6 a.m. So far, most of the public has been receptive to the new code regarding canopies and frames. However, we continue to have far too many items left overnight. Public Works has made a number of evening runs to remove items, but it is critical to the success of our program that we continue to enforce the ordinance so that word gets around and we see the number of violations reduced. B) Dune violations-For the most part, people understand the need for dune protection and are happy to comply. There have been some incidents where compliance was not immediate, however they were quickly resolved. The biggest problem reported by ambassadors is our signage marking beach accesses. Some are good, but others are in need of work. If we can clearly mark all beach accesses, then by default we can only hope that if it is not clearly marked as a beach access, then it probably is NOT a beach access. Educating the public, residents and visitors alike, is the key to this ordinance. C) Dog leash ordinance: This particular ordinance will also need increased enforcement if we are to reduce the number of violations. The ordinance, which is posted at each beach access, is very clear, especially during the tourist season; dogs are to be leashed 24/7 while on the beach. However, it seems that many dog owners do not feel it applies to them. We will continue to emphasize the importance of compliance with this ordinance. D) Holes on the beach-The number of abandoned holes increases with an increase in crowds, and the size of holes seems to be increasing as well. We are doing our best to approach people as soon as we see a hole in progress, but many times they are abandoned and the owner cannot be located. It is then up to the ambassador to fill it in as much as possible, but this can take time and energy, both of which are better suited to continued patrolling. Some holes are just too large and deep, in which case a photo is taken and forwarded to Public Works. E) Litter-Litter will always be a serious problem, and the July 4th weekend was no exception. Cigarette butts continue to be a major problem. Ambassadors have distributed plastic "butt container" to those smoking, and I have personally placed 2 small signs on each pier. Unfortunately, much more work needs to be done. In conclusion, I feel very good about the program so far, and all ambassadors appreciate the support of the Town to enforce our ordinances as we move forward into another busy season. We still have a few months left to go and many miles of beach to cover. Thank you.

Mayor Pro Tempore Medlin said Mr. Cox was a blessing in disguise; we needed someone like him to manage this program. He said he thinks we have made great strides already and it is an education process and will get better.

New Business 1: Councilor Painter said “wow.” If the political parties could just bottle this and figure out how to get a response like this for other issues. She said she knew the responses had been overwhelmingly in favor of not changing hours dogs are allowed on the beach. There were a few who supported making changes, but fewer than 10. She said Oak Island is one of possibly three in the area that allows dogs on the beach. She said we need to make sure the ordinances are enforced and pull together to make sure that happens. She does think there could be some strengthening of the ordinances, and maybe that is something she could look at. She supports making no change. Mayor Wallace said she stopped counting at 576 Facebook posts on her page, phone calls and emails. She said that most of those who supported changes did so out of concern for the dogs being on a hot beach. Mayor Wallace said she is so appreciative of the response. The Mayor also noted that in 2009, there were 335 calls with one bite, in 2010 there were 309 complaints with 30 on the beach and one bite, in 2011 there were 386 calls with 33 on the beach, in 2012 there were 400 at large with two bites, in 2013 there were 400 at large with 18 on the beach and one bite with an intoxicated victim. As of June 26, 2014 there were 167 at large with 11 on the beach, four aggressive. She said she thought that was pretty good considering the thousands of dogs that visit our beach. She asked staff to step up enforcement and asked citizens to report dogs at large. Councilor Painter asked if someone could video any problems so there is a record of it. Mr. Edes said yes, since it was a public beach; the person who took the video would still have to testify if the case went to court. If a dog is off leash, animal control officers can issue a citation; if the owner is not there, the dog can be impounded. Mayor Wallace asked for a review of the Town’s ordinances regarding a dog being a nuisance. The Mayor also noted that civil penalties paid to the Town are actually forwarded to the Brunswick County school system. Council took no action on the Agenda item.

PUBLIC COMMENTS - GENERAL TOPICS & AGENDA ITEMS

Bob Fitzgerald, 404 West Yacht Drive, Mr. Fitzgerald said it was terrible to get a call from Animal Control officers saying that they had two “prisoners.” He also said he appreciated the officers’ work. He said he is a bit disappointed and discouraged. He remembers when there were objections to the turn lane that was added to the middle of Oak Island Drive. The second bridge was built, though some complained it shouldn’t be built off Middleton. Along the way, some mistakes were made. He thinks the Town has some great staff. Mr. Fitzgerald particularly complimented the Recreation Department. He said he was amazed at the great evaluations and commendations, and then something happened. Mr. Fitzgerald said maybe it wasn’t personnel, but personal, problems. He said he didn’t know what family members, friends or neighbors might be gaining by these personal issues. He said we are having some issues, and he thinks it is strange to have a department like the Rec Department, which has been managed so well and still maintains great staff and all of a sudden, it hit the fan this last year. He asked what changed. Personnel? No. personal? Maybe.

Rosanne Fortner, 113 Paula Circle: Ms. Fortner said she had flashbacks when she heard Council would be discussing dogs on the beach. In 2009, she said they collected hundreds of signatures when Council was considering eliminating the hours dogs were allowed on the beach off-leash. She said that the pet owners of Oak Island and many visitors all enjoy having the whole family on the beach, including their dogs. Ms. Fortner cautioned Council that when we listen to one complaint, we ignore the happy portion of the population and the joyous beach hours that make Oak Island one of the top 10 pet-friendly beaches. She said we need to get in the habit of telling our complainers that we’re doing our best and we’ll try to do better with enforcement of our fair ordinances. Every complaint doesn’t need to come to Council for passage of a new rule.

Elsbeth Miller, 5068 Wyncie Wynd: Ms. Miller said she walks the beach almost every day with her dogs and she loves it. Because of her dogs, she ends up talking to people. This last week, she said the outrage on the beach was amazing. She said there are visitors who come here and residents who retired here only because we have a dog-friendly beach. Ms. Miller said police officers patrol the beach. She said she has

beaches. Why should Oak Island and Brunswick County residents care about continuing to attract visitors? Mr. DeMonbrenn said the economic impact of travel on North Carolina counties states that state and local tax revenues from travel to Brunswick County amounted to \$47.39 million, a \$420.88 tax savings to each county resident. He also said Oak Island Accommodations had at least 100 comments on its Facebook in support of keeping dogs on the beach. Mr. DeMonbrenn also read an email from a property owner with a similar message.

Larry Gerstenhaber, 204 Ocean Drive: Mr. Gerstenhaber suggested making the dog ordinance more readily available on the Town's website.

Katherine DeSarno, 329 NE 50th Street: Ms. DeSarno said one of the primary reasons she bought property here and plans to retire here is that it is a dog-friendly beach. She said she was also hearing talk about high-rises and chain restaurants. She hopes that Oak Island will continue to be a family-friendly beach.

JK Somers, 1608 E. Yacht Drive: Mr. Somers said when he was a little boy, there were no leash laws and his dog ran around the island. He would get calls about where his dog was; he was responsible for his dog. There is no problem with dogs, but, rather a problem with dog owners. He said there were other issues that need to be addressed. For example, he sees unregistered golf carts on the roads with children driving them. He said enough of our rights were already taken away and asked Council not to take away any more. He also asked Council to consider expanding the time frame when dogs are allowed to be on the beach off-leash.

Mayor Wallace asked the audience if Council should consider expanding the off-leash hours in the off-season; following a positive response from the crowd, she asked that be added to the next month's agenda.

Brenda Benton, 199 NE 69th Street: Ms. Benton said she has a problem with the rules not being followed. There are people who put their dogs on leashes when the police come by and that's it. There are people afraid of dogs on the beach. Ms. Benton said she also sees people who don't clean up after their dogs. She asked how the rules could be enforced when people only put leashes on their dogs when they see the police coming.

Jamie Wishart, 3100 Marsh Grove Lane: Ms. Wishart suggested setting aside a certain section of the beach for dogs to be off-leash at least during the off-season.

Mary Ann Brewer, 3524 E. Pelican Drive: Ms. Brewer said that during the week of July 4th, she understands that the fireworks laws will be broken. But the last Sunday, she said it sounded like World War III. She said the fireworks were the large ones that sounded like cannons. She said there is no way the police cannot hear that. She said this is a state law and it is not the 4th anymore. She also said that if it continues to be an issue at bedtime, she will call someone.

Malcolm Morrison, 119 SW 21st Street: Speaking about animal traps, Mr. Morrison said he doesn't think there needs to be an adjustment made. People who don't follow the rules won't follow any amended ordinances either. Mr. Morrison said that the ordinances weren't clear though and that amendments should be made to specifically list what animals are not allowed to be trapped. He also spoke about the trapping incident in Southport in which a cat was caught in a steel trap. Mr. Morrison said there are humane traps available for residents to use. He said he did not see the need to make the ordinances more restrictive.

Council took a brief recess.

REGULAR MEETING:

I. CONSENT AGENDA

1. Approval of Minutes
 - a. May 13, 2014 (Special Meeting – Informational Session on Wastewater System)
 - b. May 13, 2014 (Regular Meeting)
 - c. May 28, 2014 (and reconvened meeting June 5, 2014 – Budget Workshop)
 - d. June 10, 2014 (Public Hearing and Regular Meeting)
2. Approval of Extension to the Audit Contract (through July 8, 2014)
Councilor Painter made a motion to approve as amended, Councilor Kiser seconded and the motion passed unanimously.

II. ITEMS REMOVED FROM CONSENT AGENDA, IF ANY

III. COMMITTEE APPOINTMENTS (no applications)

IV. COMMITTEE REPORTS

Rosanne Fortner, co-chair of the Beach Preservation Society: Last month, the group announced new membership levels. There is already one lifetime member. Other interested individuals or groups can renew or sign up using the form in the newsletter. Ms. Fortner also asked everyone to help supply grocery bags for collecting pet waste on the beach. This time of year, the supply is depleted more quickly than can be filled. Ms. Fortner spoke about the next educational program at the Recreation Center; there were 75 attendees at the last one.

V. ADMINISTRATIVE REPORTS

1. Town Manager: Mr. Foster thanked the department heads for their work on the festival and the storm. He reviewed information department heads supplied regarding what their staffs handled over the holiday week:

Police

Date Range: July-3 thru July-7

Dispatched Calls - 261

Incident Reports – 23

Arrests – 7

Accident Reports – 7

State Citations – 16

Parking Citations – 7

Warning Citations – 13

Mutual Aid Calls – (1) Sheriff's Dept., (1) Bald Head Island Public Safety, (1) Boiling Spring Lakes Police Dept., (1) Southport Police Dept.

Also assisted with Southport parade and fireworks. Provided beach patrol Friday thru Sunday.

Fire/EMS Calls These are the calls as reported at the staff meeting yesterday for the July 4th week (June 30th – July 6)

23 Medical

11 Fire Calls

1 MVA

1 Water Rescue

36 Total

Solid Waste

From Wednesday, July 3rd until Sunday, July 6th, we collected 8 full dumpsters and 5 dump truck loads of trash from the beach access cans. This is approximately 5.5 tons of trash.

Utilities

Middleton Vac St- July 3 through the 6 th	5.2 Million Gallons Waste
Fish Factory	1.52 Million Gallons
	6.72 Million total

Only minor routine repairs were necessary. Received a number of calls about Middleton, where it appeared to be under repair; however, in fact, it was a bypass pump that was put into place in case of power outages over the weekend.

Mr. Foster also reported that the Dolphin Drive work is finished. Staff will look into additional bids while the weather lasts, including an overlay on Yacht Drive and a portion of Dolphin Drive that was not included in the first contract and also NE 58th Street. Staff has contacted Time Warner Cable about the call sign changing for the Town's channel. Town Clerk Lisa Stites said that she had arranged for Steve Pfaff with the National Weather Service office in Wilmington, to come to Town Hall and film some Public Service Announcement segments on hurricane warnings and watches, rip currents, etc. Ms. Stites will also be scheduling beach tours for Council members. Mr. Foster also noted that the Town is grateful for Rep. Frank Iler's support of the Town's request for state funding for the Eastern Channel/Lower Lockwood Folly project.

2. Town Attorney: Mr. Edes had no report.

VI. OLD BUSINESS

1. Discussion of and Possible Action on Phase I of the Lower Lockwood Folly Restoration Project -- Eastern Channel Dredging/Beach Nourishment: Mr. Foster said that at the June meeting, Council approved pursuing this project. Moffatt & Nichol has submitted a proposal. The Town has obtained funding through the Division of Water Resources for 50 percent of the total cost of \$274,925.

Councilor Painter made a motion to accept the proposal submitted by Moffatt & Nichol, and amend the budget in the amount of \$274,925 to cover the costs as outlined in the proposal.

Mayor Pro Tempore Medlin seconded and the motion passed unanimously.

Returning to the Channel 8 subject, Mr. Foster said that the station would be down temporarily while equipment is repaired.

VII. NEW BUSINESS

1. Discussion of Limiting Hours Dogs are Allowed on the Beach During the Season and Whether the Town's Ordinances Need to Be Strengthened (discussed earlier in the meeting); Council declined to take action on this item.
2. Consideration of Amendment to Sec. 4-8(a) of the Town's Code of Ordinances (Animal Traps): Mayor Wallace said she added this to the agenda at the requests from citizens following a situation in Southport with a cat trapped in a steel trap. The Mayor said she would remove this item from the agenda at this time; she read from a letter the City of Southport received from the NC Wildlife Resources Commission's general counsel that explained the method of trapping in question is allowed by state statutes. She said the Town can still research the matter to see what would be allowed. Mr. Edes said the statute referenced in the letter deals with wild animals; there may be something the Town can do regarding domesticated animals.

3. Schedule a Workshop to Discuss Possible Parking Management Plans: Mr. Foster said that it's important to preserve enough spaces for residents and property owners. The Town expends quite a bit of resources in writing tickets and hearing appeals on them, collecting money, etc. Mr. Foster said that a representative from a parking company can address Council at a workshop. Council scheduled the workshop for July 24th at 6 p.m.

4. Direct Staff to Seek Local Legislation to Rescind the Town's Extra Territorial Jurisdiction (ETJ): **Mayor Pro Tempore Medlin made a motion to direct staff to seek local legislation to rescind the Town's ETJ. Councilor Painter seconded the motion.** Planning Coordinator Josh Crook said that the Town does have an active ETJ that covers a small part of the SeaWatch development on the mainland near the Sunset Harbor community. The Town could approach Brunswick County about rescinding the ETJ. However, staff saw a similar local legislation passed for another part of the state. The earliest this could get before the General Assembly would be January 2015. **The motion passed unanimously.**

Councilor Scott made a motion to adjourn at 7:50 p.m. Councilor Kiser seconded and the motion passed unanimously.

Betty W. Wallace, Mayor

ATTESTED: _____
Lisa P. Stites, CMC
Town Clerk

Clerk's Statement: Minutes are in compliance with the open meetings laws. The purpose of minutes per the open meetings laws is to provide a record of the actions taken by a Council or a Board and evidence that the actions were taken according to proper procedures. All actions of the Council are recorded in the official minutes. Not all portions of Town of Oak Island meetings are recorded verbatim in the official minutes, with general discussion items, reports, presentations, and public comments being paraphrased or summarized in many instances. Public comments in writing should be submitted to the clerk via hard copy, electronic mail, or other means so as to ensure an exact verbatim account. The Town of Oak Island provides full coverage of meetings on Government Channel 8 so that the Citizens and the Public may view and listen to the meetings in their entirety.

MINUTES
OAK ISLAND TOWN COUNCIL
REGULAR MEETING
September 9, 2014 – 6 P.M.
OAK ISLAND TOWN HALL

CALL TO ORDER – HONORABLE MAYOR BETTY W. WALLACE

Mayor Wallace called the meeting to order at 6 p.m. Mayor Pro Tempore Medlin gave the invocation and led the Pledge of Allegiance to the flag.

Mayor Wallace moved Old Business 3, Discussion of Golf Cart Regulations to immediately following Adjustment/Approval of the Agenda.

COUNCIL REPORTS (MAYOR AND COUNCIL)

Mayor Pro Tempore Medlin and Councilors Kiser, Painter and Scott had no report.

Councilor Winecoff said he was there to represent the people of the Town. He said prior Councils did things that he didn't like, but different points of view should be cherished. He asked everyone to address each other with respect. If they didn't agree with Council members' views, he said that was their right, but everyone should be working for what is the best interest of the Town, not individuals.

Mayor Wallace said on August 27, Habitat for Humanity cut the ribbon on the 50th home built in Brunswick County. On August 29, Congressman Bill Schuster, chairman of the House Transportation and Infrastructure Committee met with area mayors to discuss mostly coastal issues. The Mayor said the Parks and Rec staff did a great job with the Surf Off; this was the first year the Town sponsored the event. The Arts and Crafts Festival, hosted by the Oak Island Arts Guild, was August 30. The Mayor also thanked the Public Works staff for responding quickly to concerns about a stop sign and the lights on the tennis court.

PRESENTATIONS, PROCLAMATIONS AND RECOGNITIONS

1. Proclamation – Constitution Week September 17-23, 2014 – Daughters of the American Revolution: **Mayor Wallace read the Proclamation.**
2. Proclamation – Appreciation for the efforts of Danny Mylod to organize a Blood Drive: **Mayor Wallace read the Proclamation.**
3. Presentation – Report on Sewer System Functions During the Summer – Public Utilities Director David Kelly: This item was removed from the agenda because Mr. Kelly was unable to attend the meeting.

ADJUSTMENT/APPROVAL OF THE AGENDA

Mayor Wallace moved Old Business 3 to immediately after Adjustment/Approval of the Agenda. Mayor Wallace also added New Business 3, Engage an Auditor to Perform the Financial Statement and Audit Preparation Services (S Preston Douglas & Associates). Mayor Wallace removed Consent Agenda 2, Approval of Grant Contract with NC Department of Environment and Natural Resources – Lockwood Folly Navigational and Habitat Restoration Project Phase I, from the Consent Agenda. Councilor Kiser removed Consent Agenda 3, Approval for the Manager to Grant Exemptions from the Mini-Brooks Act for Procurement of Engineering Services, from the Consent Agenda.

Councilor Painter moved to approve the agenda as amended. Councilor Kiser seconded the motion and it passed unanimously.

Old Business 3: Councilor Winecoff thanked Major Jordan and Lt. Franks for their work on this report. **Councilor Winecoff made a motion to direct staff to look at Brunswick County's ordinance and bring it to the October meeting for Council's review. Councilor Scott seconded the motion.**

Councilor Winecoff said that the County's ordinance requires carts be driven by a licensed driver, that it be registered with the County for a \$25 fee, proof of insurance, have a rearview mirror, a reflective device on the back, and a flag on the back "Slow Moving," that the brakes be in good order, that the carts not be modified not to exceed the speed of 25 mph, and that they must be driven on streets with 35 mph or less. Councilor Painter said we would probably have to make a distinction between low-speed vehicles that are already street legal and other types of golf carts. There may be some things that the Town would not require, such as turn signals or headlights (and limit use to basically daylight hours). Mayor Wallace noted that a tagged, street-legal low speed vehicle would not be affected by an ordinance governing golf carts. Councilor Winecoff suggested that Pelican Drive be kept at 35 mph year round to be a route low-speed vehicles and carts could use. Councilor Painter said this would eliminate the ability of golf carts to be on the sidewalks; driving carts on the sidewalks is a safety issue. Councilor Painter said in her opinion, at least Oak Island Drive should be off-limits. Town Attorney Brian Edes advised that Council may want to consider a way to monitor that cart owners maintain insurance on the vehicles so they don't just have it for permit approval and cancel it two days later. Lt. Franks recommended that inspections be done by someone other than the Town; Mr. Edes recommended the same. Mr. Edes said that post-market items that are required can void the manufacturer's warranty, which could be a concern for the owners. Brunswick County's ordinance does not require seatbelts. Mayor Wallace said she couldn't imagine allowing these vehicles on the roads without seatbelts. Mayor Wallace also suggested Council hold a workshop on the issue. Mayor Pro Tempore Medlin said he knew of a number of people who are disabled and a golf cart is their only way to get on the beach; he would like an ordinance that has a provision for that. Lt. Franks said that a handicapped person can get approval from the police department to take an approved vehicle (golf cart) on the beach. Mayor Pro Tempore Medlin said he was surprised we were spending this much time on this issue when mopeds are all over the island without any requirements for insurance, etc. Lt. Franks said that mopeds are allowed by state law. Lt. Franks said this entire discussion arose from a different interpretation of state law. There were concerns about interactions of golf carts being used on the sidewalks and pedestrians. The department's intention was to make it safer for those using the sidewalk to actually use the sidewalk. He also noted that one of the considerations is that people visiting here from other places bring carts to use while they are here and are unaware of the rules. Mayor Wallace noted that the handicapped stickers weren't meant to allow carts to serve as a substitute automobile. **Councilor Winecoff amended his motion to also direct staff to schedule a workshop. Councilor Scott amended his second and the amended motion passed unanimously.** Councilor Kiser asked the audience to weigh in on whether they would want to see Dolphin Drive remain 35 mph year round; the majority would support that.

PUBLIC COMMENTS - GENERAL TOPICS & AGENDA ITEMS

Eric Thornton, 134 NE 32nd Street: Mr. Thornton referenced a golf cart study done several years ago; nothing was done with the study. He said his wife is disabled and it would take \$1,500 to get their golf cart converted to a street-legal vehicle. He said that his \$2,000 golf cart has been sitting in the backyard unused, even though it was previously allowed to be used as her mobility device. He said that if there is ever a committee formed to address this issue, he would like to be on it. Using Oak Island Drive as a cross street doesn't hurt anything. He said he hoped Council could resolve this issue.

Councilor Winecoff made a motion to allow the use of other power mobility devices, such as electrically powered golf carts, on the non-state maintained roadways of Oak Island with a speed limit of 35 mph or less, and not the sidewalks, to access the beach and other facilities. Councilor Kiser seconded the motion. Councilor Winecoff amended the motion to add the requirement that

the cart is for the handicapped person to be used as a mobility assistance device and one attendant. Mr. Edes advised adding the policy statement from Caswell Beach's ordinance (Sec. 72-.01) to the motion. Councilor Winecoff amended the motion to include Sec. 72.01 Policy Statement from the Caswell Beach ordinance. Councilor Kiser amended the second. The amended motion passed unanimously.

Larry Carriker, 112 NE 47th Street: Mr. Carriker said he has been disabled a long time. He has lived here ten years and always used a golf cart to go to the beach, grocery store or a neighbor's house. He would just like to be able to retain that mobility.

Debbie Hunter, 312 Mercer Street: Ms. Hunter said she is disabled and finding someone to take her two blocks to get her medicine is a problem, let alone a ride to the grocery store. She thanked Council for what was done tonight.

Sandra Palmer, 1621 E. Pelican Drive: Ms. Palmer said she also appreciated what Council did this evening. Taking this mobility away from the handicapped would be an extreme hardship. She also asked the Town to send out the mosquito trucks.

Kay Wolf, 8 Yaupon Way: Ms. Wolf spoke about a fundraising activity for WAVES 4 K.I.D.S. It is the last Saturday of September and is called "An Evening of Chocolate Decadence." The group serves more than 1,000 families and helps children in foster care in Brunswick County; most of these children have been physically, sexually or emotionally abused. Even though children are involved in the court system or with social services, all of their financial needs are not being met. The group is all volunteer and all the funding comes from donations. Ms. Wolf said that it takes a village to raise a child; she encouraged and asked everyone to attend.

Bob Lloyd, 4257 Anderson Drive SE: Mr. Lloyd said he loves living here. He looks at the beach that the taxpayers pay for and the visitors don't. He said the Town needs to find a way to have them share in the expense. This Town needs revenue and that can be done with paid parking. He said he knows a lot of people don't like the idea of that, but it is a good source of revenue for many towns.

Niki Cutler, 2212 E. Dolphin Drive: Ms. Cutler said that she has lived near the beach for ten years. Ms. Cutler complimented the Surf Off. She also discussed the polycart issue for Beach Drive. The weekly renters are not going to handle it; they're here for a week and they don't care about putting the carts out on the right days. She proposed requiring the rental agencies to make sure the carts are out on the right days. Putting the carts back should be up to the trash collection company.

Helen Cashwell, 3407 E. Yacht Drive: Ms. Cashwell said the proposal for dredging and beach nourishment leaves many unanswered questions. How will the Town make up the shortfall of cash for the project? Why the quick rush to judgment for a project that benefits so few? The endangered homes in question were placed way out in front of the other houses, putting them at greater risk. She said that the beach is now collapsing behind the sand bags that were placed on the beach. Ms. Cashwell said that spending \$3.5 million on the west end is not profitable. She questioned the matching grant requirement amount listed in the proposal, \$1 million to the \$1.1 million grant amount, and asked if that was a mistake. She asked Council to turn down the request and look at the entire island's needs, not just a few homeowners and wait for the Town to get an engineered beach.

Sarah Brainerd, 159 NE 12th Street: Ms. Brainerd said she wanted to speak to the proposed changes to the animal control ordinances. She said that she and her husband moved here because it was a dog-friendly

beach. Part of the proposed ordinance amendment allows for more time off-leash and more enforcement options for rule violations; she favored both of those changes.

Kelley Germaine, 6610 Kings Lynn Drive: Ms. Germaine thanked Council for the new polycart rules. She agreed that the public needed to be educated. It is important for second-home owners to have options for compliance. She said that she is concerned about the six-month time period for implementation. She said she was afraid that in six months, this will be forgotten. Ms. Germaine also said the west end, not just four houses, is in trouble from erosion. During the last beach nourishment project, in 2001, the west end did not get sand yet all property owners were assessed for the project.

Town Clerk Lisa Stites read the following written comments submitted as follows:

Deborah Neu, no address given: I am writing in response to the CAMA permits that have been applied for to build single family homes at the corner of 69th street and East Beach. While they are prime oceanfront locations, it is incredibly sad to see another portion of the freshwater pond and all of its vast number of animal species encroached upon even further. We were on Oak Island during the most recent torrential rainfall, and the hurricane, both of which sent the pond water levels overflowing into the streets as well as underneath the bridge and into a portion of the dunes. Because we have small kiddos, we explored and found numerous types of frogs, turtles, snakes, minnows, crawfish, and even the alligators. Since the lots would not exist had Mother Nature not intervened years ago, it would be so wonderful to see the fresh water pond/marsh reclaim that portion of land. In addition, as I am sure you are aware, there are serious drainage issues at this particular corner as all water flows from St. James by the Sea to the low lying area. With the last substantial rainfall, the fire hydrant remained underwater for days. Adding more homes, more people, more trash, more strain on our water systems, our electrical supply, and our lack of drainage, are all cause for concern as well. I know it is the prerogative of every landowner to do as they deem fit, provided the permits are issued, but it is so sad to see these enormous homes go up for the sake of nothing more than personal financial gain, with little regard for much else. We were access parents for the summer and were appalled at the way our beaches are left littered with trash and debris, and folks pretty much not adhering to any beach rules. While I know my writing to you probably will have no bearing on the permits being issued or not, it is my right, as issued by your office, to respond with my comments. We love Oak Island and are proud to be modest homeowners as well. Thank you for all that you do to protect our beautiful beach.

Mark Plamatier, no address given: I wanted to make sure that since a letter was written by a neighbor who just purchased their property in Dec. 2012, which was after these lots were subdivided that I had a chance to speak. The Neu family was well aware that the property diagonally in front and to the right of their property were buildable properties. In fact, these properties were for sale when the Neu family put their current home under contract knowing that these lots could be built on and were for sale before the Neu family closed on their current property. I have taken every step to not disrupt the eco system in the area around these properties. I have moved the homes toward the ocean to get further away from the wetland area on the lots. I have CAMA Major permits that allow me to build over the wetlands but have chosen to not disrupt mother nature by moving the homes forward. Also, I have chosen a local builder who is familiar with building on the ocean front and wetland areas to ensure that the local, CAMA, and Army Corps rules are followed and not violated. The builder is placing silk fencing around the jobsite and wetland area so there will not be any unnecessary runoff into the wetlands. The comment about building enormous homes and only building for personal gain is insulting, to say the least. I am building much smaller homes than what is allowed by the new Town of Oak Island ordinance. These homes are only 3,000 square feet which is 2,000 square feet less than the 5,000 square feet allowed for a single-family home on Oak Island. These homes are equipped with 6 bedrooms, which is less than the maximum allowed by the new Town of Oak Island ordinance. My family vacations here for months at a time during

the fall and needs these amount of bedrooms to house them. My property rights allow me to build in the area that I am choosing to build in. I did a lot of due diligence prior to purchasing these properties and as part of my due diligence, I made sure of the size of the home I could build and the placement of where I could build these homes. To follow all the rules, to research what is needed to follow all of these rules, to pay money doing all of the necessary due diligence to perform the research, and to then not to be able to build within those rules is against our property rights as land owners in this country. The Neu family really seem concerned with another property owner building and taking away views from their 2nd row property, as well as rights of his own. This is the case with any 2nd row property that has oceanfront property in front of it. The main reason that ocean front property cost more than 2nd row properties is that your views will not be obstructed. The Neu family knew what they were buying and chose to be there. The lots that I purchased could have been purchased by the Neu family to preserve their view. I am not trying to hinder any of my neighbors or disrupt the nature around my properties. Instead, I have taken every effort to not disrupt any wetlands by not extending the bridge over the wetlands nor build my homes over any wetlands which my permits permit me to do, and to move my homes forward (away from the wetlands) to make sure the wetlands are not disturbed. To say that I am doing anything but staying well within the rules of building a home on the ocean front of Oak Island would be an untruth! I was born and raised in Brunswick County and have been coming to Oak Island for over 40 years.

Mr. Milligan, of Milligan House Movers Inc.: I would like to request a change, if possible, in the house moving ordinance. From Wednesday only, to a three day a week (Tues-Wed-Thurs) move during the off season. Starting September through April. Thank you in advance for your consideration.

Council took a brief recess at 7:27 p.m.

REGULAR MEETING:

I. CONSENT AGENDA

1. Approval of Minutes

- a. July 24, 2014 (Special Meeting – presentation on paid parking)
- b. August 12, 2014 (Public Hearings & Regular Meeting)

Councilor Painter moved to approve the Consent Agenda as amended, Councilor Kiser seconded and the motion passed unanimously.

II. ITEMS REMOVED FROM CONSENT AGENDA, IF ANY

Approval of Grant Contract with NC Department of Environment and Natural Resources – Lockwood Folly Navigational and Habitat Restoration Project Phase I: Mr. Foster said he was very pleased that the Town was selected to receive this \$1.2 million grant; receiving an additional \$500,000 in funding is also possible. The dredging project will provide enough beach-grade sand for approximately one mile of beach. Mr. Foster said the west end is experiencing the fastest erosion he has seen. There are about six houses that are in danger of being lost. The next step would be environmental review for the permits, contracting with a dredging company and obtaining right to enter for the properties to receive sand. Mr. Foster distributed a picture of a home being razed at North Topsail Beach following extreme erosion. The houses there were exposed on the beach for three years before being demolished and it cost the Town of North Topsail Beach \$1.6 million in the process. Mr. Foster said it was imperative that we keep that situation from happening at Oak Island. He read a list of reasons the project is important: 1) To save millions of dollars of real estate, accompanying ad valorem taxes, accommodations taxes and sales taxes, not just for one year, but for every year following the loss of structures 2) Provide protection for the other existing structures that may be in the same position in the near term – this is not an isolated issue 3) Dangerous debris left in the surf 4) Bad publicity and the damage to house prices throughout the Town 5) Loss of tourism – no one wants to spend thousands of dollars to rent a house

and then climb down a ladder to get to the beach from the house 6) Continually clogging a dangerous channel (Eastern Channel – boats are hitting sand bars 7) Decreased shellfish areas with contaminated crustaceans 8) There are no other beach nourishment projects the Town is obligated to 9) The primary purpose of local government is to provide safety and property protection. Answering a question from Mr. Foster, Finance Director Bonnie Schwerd said the Town had \$2.1 million available in the Accommodations Tax/Beach Funds. Mr. Foster said engineers are pushing to get the project done this year. Mayor Wallace said that a letter from DENR indicates that this is exactly the type of project the agency wants to fund and that if more money is available, another award could be made. Mr. Foster added that the funding is actually for the dredging and the sand is a byproduct of the dredging. Mayor Pro Tempore Medlin said this was a “no brainer” and if we don’t have a beach, we won’t have any tourists. Doing beach nourishment in stages makes sense. **Mayor Pro Tempore Medlin made a motion to approve the grant contract with the North Carolina Department of Environment and Natural Resources for \$1.2 million grant for the Lockwood Folly Navigational and Habitat Restoration Project Phase I as presented in our packet. Councilor Painter seconded the motion.** Mr. Foster said that on page 18 of the packet, our match should be \$1.1 million (it was a typo). Mayor Wallace also said the Eastern Channel runs from Blue Water Point to Lockwood Folly. That is the waterway side for all the homes in that area and the waterway side of King’s Lynn, where the Town Manager lives. Mayor Wallace said that dredging the Eastern Channel benefits the homeowners there by making fresher shellfish waters. The Mayor said she would not tolerate accusations of conflict of interest just because the Manager’s home happens to be in the area of a project that has been discussed for the past 12 years. Mayor Wallace also said the County could pledge up to \$125,000 as well; the Town requested \$125,000 and is awaiting an answer. Councilor Winecoff said he thought the beach is more important than parks and he hoped the County Commissioners would consider funding this project. Answering a question from Councilor Scott, Ms. Schwerd said the Town had about \$25 million in fund balance in other funds. Councilor Scott asked if Council could have a monthly report in the agenda packets on the fund balances. **The motion passed unanimously.**

2. Approval for the Manager to Grant Exemptions from the Mini-Brooks Act for Procurement of Engineering Services: Mr. Foster said this was something he was asking for to be able to grant exemptions for the Manager to approve contracts up to \$50,000 for engineering and architectural services. Mr. Foster said that there are times when we can’t wait 30 days until the next Council meeting for something to be approved. Ms. Schwerd said an example was the many engineering changes needed during the golf course reuse project; going through the request for qualifications process for each of those changes. **Councilor Kiser made a motion to authorize the Manager to grant exemptions from the Mini Brooks Act for procurement of professional services for amounts less than \$50,000. Mayor Pro Tempore Medlin seconded and the motion carried unanimously.**

III. COMMITTEE APPOINTMENTS

1. Beach Preservation Trust Fund Advisory Board: **Council unanimously appointed Elsbeth Miller to a term ending September 2017.**
2. Capital Improvement Committee: **Council unanimously appointed Richard Kipke to a term ending September 2017.**

IV. COMMITTEE REPORTS

Skip Cox, for Beach Ambassadors program, written report submitted as follows:

General comments - As we have now completed the end of the first tourist season for OIBA, I am very pleased with the results. We will assess all aspects of the program in the coming weeks, and assuming the program is approved for a second year, we will begin discussing areas for improvement. Patrolling activity will be diminished as we enter the off-season, but we feel it is important that we do not let the education and compliance of our ordinances take a break. For this first season, we recorded over 550 hours of beach patrolling.

Number of trained ambassadors - We finish the year at 34. We will actively recruit additional volunteers early next year, and hope many of our 2014 class will return.

Beach patrol area - We have full coverage of the entire beach, though the East end seems to be the area of choice for the ambassadors. We will work closer with them to increase coverage on the West end, where we see an equal number of violations.

Patrol teams - We initially began the program with teams of 2 ambassadors per patrol, but due to the need for increased coverage with the addition of the West end, we now allow single patrols.

Patrol schedule - Although our patrol schedule was fixed at Saturday through Monday, several ambassadors took it upon themselves late in the season to patrol on random days throughout the week, which gave more visibility to our residents and visitors. Personally, I made a couple of runs in the Polaris vehicle during each week, covering the entire beach. I believe it is important for residents and visitors to see ambassadors throughout the week, as opposed to just the long weekends. We are a resource to them for information, and it gives us the opportunity to continually educate and monitor the compliance of our targeted ordinances.

Patrol times - We have expanded the patrol times to fit the convenience of the ambassadors as well as safe observance of the tides. Patrol time now is flexible between noon and 8:30PM.

Ambassador patrol report - The report process remains in place, and the data base of information continues to build to track beach coverage, record ambassador hours, and maintain a photo gallery for documenting violations and for training purposes.

Targeted Ordinances -

A. Beach gear - This was the first year that the new ordinance required ALL unattended beach gear to be removed from the beach from 8:30 p.m. – 6 a.m. I feel that we were as successful as we could have expected to be, given the challenge of enforcing this ordinance. It will be interesting to see how much of the education spills over to our returning visitors and new ones next season. Public Works has been very supportive in reacting to the violations, which were far more numerous than I anticipated. It is critical to the success of our program that we continue to enforce the ordinance so that word gets around and we see the number of violations reduced.

B. Dune violations - Though I cannot prove it with hard numbers, I do believe we saw the number of violations decrease during the course of the season, but that may be due to reduced crowds as well. In any event, most violations, at least later in the season, seemed to be trivial in nature (very few large items in contact with or on the dunes), which was good to see. I did address a first time violation just a couple of weeks ago, where I came upon a young man kicking a soccer ball, and using the dune as a back board. After a quick explanation of dune protection, he apologized. An issue that I brought to your attention at the last meeting was our signage marking beach accesses. I felt that we needed an update to clearly mark what is and is not a legal beach access. Since that last meeting, with the help of copious notes from the Beach Preservation Society and a lot of foot work by Darya (our UNC-W intern), we made great strides in addressing this issue. Darya took the notes from BPS and went to the beach to take an inventory of all legal beach accesses. Her inventory also exposed a number of illegal accesses being used. A list of beach accesses will soon be completed for distribution to the ambassadors for next season. Follow up work with Public Works to address posts and ropes where needed will also be discussed in the off-season.

C. Dog leash ordinance - Since the last meeting, I encountered a situation where I approached a lady who did not appear to have a leash for a large dog. When I asked her if she had a leash, she showed me what she called a "wireless" leash. It was a small transmitter with an antenna. The dog's collar was the receiver, and responds to vibration, shock, and voice commands. The lady, who owns a second home on Oak Island, felt quite comfortable that she was within compliance of the leash law using the device. After discussing the situation with Animal Control, it has since been confirmed that the device will not allow compliance with the ordinance, which states that dogs are to be "leashed and physically restrained."

D. Holes on the beach - The number of abandoned holes increases with an increase in crowds, but the size of holes seems to be increasing as well. We did our best to approach people as soon as we saw a hole in progress, but many times they were abandoned and the owner could not be located. We need to find a way to increase the awareness of this problem, which seems to be getting worse. Just last week, a young girl died in Oregon when a hole collapsed and she suffocated before she could be pulled from the hole. Though a rare occurrence, we certainly do not want this to happen on Oak Island.

E. Litter - In addressing the problem of cigarette butts on the beach, ambassadors distributed a large number of compact and cup ashtrays obtained by a volunteer representing "Keep Brunswick County Beautiful." Several butt containers were also installed on the piers by Public Works. I am pleased to tell you that one of our ambassadors, who is very passionate about cigarette butts on the beach, has reported a decrease in butts near the piers. She has been actively distributing the ash trays to people fishing on both piers. So, it does appear to be working. In late July, I went to Ocean Crest Pier, responding to a report from an ambassador regarding litter from the wristbands that are given to people fishing and walking on the pier. I asked the lady working if they had considered an ink stamp instead. She said yes, but it didn't last long when exposed to water. She then told me that the wristbands are supposed to biodegrade within 72 hours of contact with water. I think 15 minutes would be better.

New Issue - We have an issue that has recently reared its ugly head - the dangerous activity of shark baiting from kayaks just off shore. There have been several reports to ambassadors from both residents and visitors this year, such that it may be time to address the problem and determine what can be done to stop it in the name of public safety. While we understand that the NC Division of Marine Fisheries says we have no jurisdiction or enforcement power below the mean high tide mark, we have also independently confirmed that there are existing ordinances on the books at both Wrightsville Beach and Myrtle Beach which prohibit shark baiting from both the pier as well as on the shore. We need to find out how these communities were able to create ordinances despite the same information from the NC Division of Marine Fisheries. The public safety of our residents and visitors is in jeopardy here and needs to be considered in the face of this dangerous and irresponsible activity.

Special recognition - As this first year of the program winds down, I would like to recognize several people who have contributed greatly to the success of the program. First, there are several ambassadors who went above and beyond the call of duty in performing their volunteer service. They are Cheryl Gardner, Ida Parker, and Elsbeth Miller, all of whom have been actively patrolling since we began Easter weekend. While all of our ambassadors are responsible for the program's success, these 3 ladies deserve special recognition for their additional efforts. Secondly, I would like to recognize Lee Hinnant, staff writer for the *State Port Pilot*. Lee has been on board supporting our program through media coverage from the very beginning. He has authored numerous articles during the season to keep *Pilot* readers abreast of the program, while increasing consumer awareness of the Town's ordinances. Thanks Lee.

Again, I feel very good about the results of this inaugural year of the program. We will have a meeting next to review the results, and then discuss all opportunities for improving the program for the next season. I and all of our ambassadors appreciate the support of the Town this year and look forward to 2015.

Following the report, Mr. Foster thanked for Mr. Cox for his efforts in making the program successful.

V. ADMINISTRATIVE REPORTS

1. Town Manager: Mr. Foster said that the NC Department of Transportation responded to the Town's query regarding the noise and traffic issues on North Middleton Avenue between the Swains Cut

Bridge and Oak Island Drive. NCDOT staff noted that the lots are so small, sound abatement would be near impossible; there would not be enough space for an earthen berm. NCDOT staff also said that the traffic count there was about the same as it is on Oak Island Drive with the same speed limit, although traffic is actually decelerating at that point on North Middleton Avenue. NCDOT did not see the noise as a problem there. Regarding access if the area were rezoned commercial, Mr. Foster said NCDOT noted that there would probably need to be some kind of access lane, which would take up land. One of the Town's Welcome signs has been installed; we are waiting for the other. Staff is working on a Request for Proposals for managing a paid parking system. New preliminary flood maps have been released. Changes are expected to take place next summer, and will be beneficial to Oak Island. Mr. Foster also noted that the Town has been spraying for mosquitoes. Bids were to be opened the next day for the next stage of paving work to be done.

- a. Update on Progress to Implement Paramedic Level Service: The Town has been tentatively approved for implementing paramedic service as of January 1.

VI. OLD BUSINESS

1. Consideration of Amendments to Secs. 4-6, 4-8, 4-46 of the Code of Ordinances and add another section: Councilor Painter said that the changes would allow the animal control officers to require a dog that is found to be a nuisance off the owner's property be removed from public property. The ordinance amendment also extends the times dogs are allowed on the beach off a leash in the off season. **Councilor Painter made a motion to adopt the ordinance amendments as presented. Councilor Kiser seconded and the motion passed unanimously.**
2. Consideration of Enforcement Options for Illegal Fireworks: Chief Eddinger said the department receives about 25 calls just for fireworks in July, a month when call volume goes from 600 to 1200. Chief Eddinger recommended adding an officer to shifts during that time just to handle fireworks violations. Mayor Pro Tempore Medlin said it was possible the Sheriff's Office could provide additional personnel to help during that time. Councilor Scott said this was a serious issue. He suggested having signs with the state statutes at both bridges. **Councilor Scott made a motion to approve the \$10,000 requested and the enforcement options presented.** Mayor Pro Tempore Medlin asked if it couldn't wait until the Town contacts the Sheriff's Office. Chief Eddinger clarified that he would just include that \$10,000 in the next fiscal year's budget. **Councilor Kiser seconded the motion.** Councilor Painter said she'd rather wait than vote for this right now. Councilor Winecoff said that fireworks are not a problem right now but they are in July; he'd rather see if the Sheriff's Office can help supply manpower. **The motion failed 2-3 with Councilors Kiser and Councilor Scott in favor and Mayor Pro Tempore Medlin and Councilors Painter and Winecoff opposed.**
3. Discussion of Golf Cart Regulations: discussed earlier in the meeting.
4. Discussion of Implementation of New Polycart Regulations: Public Works Director John Michaux said of the changes Council made previously, the biggest change was the rules for when polycarts can be put out and when they must be returned in the beach areas. Mr. Michaux said he was concerned about the October 1 implementation date. He suggested allowing more time to educate the property owners and to look at what the Town's involvement should be regarding compliance. Mr. Foster noted that the Town of Caswell Beach charges \$140 for a rollback service. He said staff was working out the details of implementation and he agreed more time was needed to make the property owners aware of the new rules. **Councilor Painter made a motion to delay the implementation of the amendments approved to Division 2. Residential Refuse, Sections 24-61 through 63, and 24-69 until April 1, 2015. Mayor Pro Tempore Medlin seconded and the motion passed unanimously.**

VII. NEW BUSINESS

1. Discussion of Knox Boxes: Fire/EMS Chief Anselmo read a prepared statement as follows:
Due to public outcry, as the Fire Chief I am recommending that the Knox Box Ordinance be amended to allow existing businesses that do not have a monitored alarm system or sprinkler system in place to

be recommended, and not required; to install a Knox Box. It must be noted however, that all new and existing commercial structures with a monitored alarm or sprinkler system will still be required to have a Knox Box. All new businesses, with or without a monitored alarm or sprinkler system will also be required to have a Knox Box. While less than desirable, I am recommending the change due to several complaints that I have received. There has been inaccurate information as well as misconceptions posted on Facebook and other social media sites. Therefore, I would like to take this opportunity to provide some clarification. The Knox Box program is a highly secure means of securing a key to the structure in a steel box. A steel box in which the fire department can access for easy, damage free entry to the structure, and also affords a way to re-secure the structure when the investigation or mitigation of the potential problem is complete. As far as the security of the key inside the Knox Box, it would be easier for a potential burglar or thief to break into the structure itself, instead of the Knox Box. Through a strict agreement with The Knox Company, the box can only be accessed in a true emergency situation or to update the keys inside the box.

In the past three weeks, the fire department has had to force entry into two structures causing damage. Although the damage was minimal, the cost to repair that damage is the responsibility of the owner/occupant, not the fire department. In both cases, the cost of a Knox Box would be less expensive than the repair. The fire department is required by law to enter and clear any potential hazard or fire in all structures, both commercial and residential. If the fire department does not gain entry and declares the building safe from the exterior, without any interior investigation, than the fire department as well as any county, city or town that governs that fire department will be liable if that building is later found to be on fire or burns down. Several lightning strikes in the past three years have resulted in fires on Oak Island, in buildings that were unoccupied. In all of those instances, it has been determined that lightning struck several hours before the fire department was dispatched. The flames and smoke went undetected to anyone outside of those structures until it was too late. One of those structures required a new roof; two of those structures were a total loss. If the fire department was called immediately after those lightning strikes and just did an exterior check, saw nothing and left the scene, the fire department would bear the full responsibility of those structures burning down. As the Fire Chief, that is not a risk I'm willing to take. Therefore, all of my staff has strict orders. Those orders are to gain access to any structure, residential or commercial; that has a legitimate threat of any potential hazard or a threat to life and/or property. Whether it is from a Knox Box, a window, a roof or a door, we will gain entry to the structure. We will take every precaution to do the minimal damage possible and to secure the structure to the best of our ability when our job is complete, but the owner/occupant is completely responsible for all repairs. The new updated ordinance will be presented at the next Town Council Meeting on October 14, 2014. In the meantime, the current ordinance will not be enforced until the update has been approved on that date. On a final note, I would like to make it clear to the public that the current ordinance was changed by me, not Mayor Wallace, Steve Foster or the Town Council. It was done with nothing but good intentions. The fire department is simply trying to avoid unnecessary damage and still do our job in protecting the property owners, residents and visitors of this island. Answering a question from Mayor Pro Tempore Medlin, the Chief said a Knox Box cost between \$243 to \$400, depending on how many keys it needs to hold and how large the box must be.

2. Consideration of Proposals to Develop a Comprehensive Land Use Plan and Unified Development Ordinance: Mr. Crook said that the Town's only land use plan is the CAMA Land Use Plan; there are also other types of plans as well. Mr. Crook said the idea is to combine some of these into a Comprehensive Land Use Plan. Staff also recommends moving toward a Unified Development Ordinance. Two proposals have been submitted for doing the work. **Mayor Pro Tempore Medlin made a motion directing the Planning Board to schedule presentations from both firms to see which one is best suited to provide the level of service desired and the Planning Board can then make a recommendation to the Council. Councilor Winecoff seconded the motion.** Councilor Painter said there was an astonishing amount of money that this would cost the Town and she

wondered if there were other avenues the Town could take. Mr. Foster said staff had approached the Division of Community Assistance under the Department of Commerce but the Town has not had a definitive response as to whether that would be possible; since then, that agency's funding has been reduced. Councilor Winecoff said he would be glad for a recommendation from the Planning Board. Mr. Foster said that it is easier to be progressive and have a plan than try to keep putting a band aid on what we have. **The motion passed unanimously.** Mayor Pro Tempore Medlin clarified that Council had not approved spending any money at this point.

3. Approval of Auditor Selection: Finance Director Bonnie Schwerd referenced the memo distributed at the meeting. Ms. Schwerd said that the Town had been late submitting the audit out the past couple of years but that staff had made a lot of strides, including updating the tax software system and hiring new staff. Ms. Schwerd said the total amount of the contract would not exceed \$44,000. Though the firm has quoted an annual cost for the next two years, Council would have to approve the contract each of those years individually. **Councilor Painter made a motion to grant authority to enter into a standard audit contract subject to approval by the Local Government Commission with S. Preston Douglas and Associates, LLP for audit and financial statement preparation services for the fiscal year ending June 30, 2014 at a fee not to exceed \$44,000. Councilor Winecoff seconded and the motion passed unanimously.**

VIII. Closed Session to consult with the Town Attorney on Pending Litigation pursuant to NCGS 143-318.11(a)(3): The Closed Session was deferred to a future agenda.

Councilor Kiser made a motion to adjourn at 9:58 p.m. Councilor Winecoff seconded and the motion passed unanimously.

Betty W. Wallace, Mayor

ATTESTED: _____

Lisa P. Stites, CMC
Town Clerk

Clerk's Statement: Minutes are in compliance with the open meetings laws. The purpose of minutes per the open meetings laws is to provide a record of the actions taken by a Council or a Board and evidence that the actions were taken according to proper procedures. All actions of the Council are recorded in the official minutes. Not all portions of Town of Oak Island meetings are recorded verbatim in the official minutes, with general discussion items, reports, presentations, and public comments being paraphrased or summarized in many instances. Public comments in writing should be submitted to the clerk via hard copy, electronic mail, or other means so as to ensure an exact verbatim account. The Town of Oak Island provides full coverage of meetings on Government Channel 8 so that the Citizens and the Public may view and listen to the meetings in their entirety.

BEACH NOURISHMENT EASEMENT AGREEMENT
For Brunswick County Parcel ID 233NE032

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK
GRANTOR(S): BARRY P. GOLOB
 SHARI S. GOLOB
GRANTEE: TOWN OF OAK ISLAND
TERM: THIRTY (30) YEARS

In exchange for the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt of which is acknowledged, the Grantor and Grantor's heirs and assigns (collectively "**Grantor**") convey to the Town of Oak Island, North Carolina, a municipal corporation ("Town") and on behalf of its representatives, agents, employees, officials, engineers, consultants, surveyors, contractors, subcontractors permittees, invitees and assignees (collectively "**Grantee**") does now grant and convey unto the **Grantee**, this Easement until December 31, 2045 to go upon the **Property** to conduct **Activities** in the **Easement Area** (as those italicized terms are defined below), subject to the following conditions:

1. **Property Subject to Easement:** That ocean front property identified as the address of 6615 W. Beach Dr. Oak Island, NC 28465, and Brunswick County Tax Parcel ID #233NE032, and described in Deed Book 3465 and Page 0703 of the Brunswick County Registry.
2. **Easement Area on Property Where Activities May Take Place:** That portion of the **Property**, if any, which (i) is seaward of the first line of stable vegetation, or (ii) is seaward of the toe of the frontal sand dune adjacent to the beach, or (iii) is seaward of the crest of the erosion escarpment, or whichever feature is most landward.
3. **Activities.** "**Activities**" are those tasks required of the Town under its **Eastern Channel Project**, which tasks include evaluating, surveying, studying, monitoring, inspecting, preserving, patrolling, constructing, operating, maintaining, repairing, rehabilitating, nourishing, and replacing the public beach, the dune system and other erosion control and storm damage reduction measures together with appurtenances thereto, including depositing sand, altering **Easement Area** contours and profiles, building berms and dunes, moving, storing, and removing construction equipment and supplies, erecting and removing temporary structures, and performing any other work necessary and incident to the **Eastern Channel Project** over, at, on, under and above the **Easement Area**. **Activities** do not include moving or damaging permitted permanent improvements within the **Easement Area**.
4. **Grantor Reserved Rights.** **Grantor** reserves the right to construct dune walkover structures to the extent allowed by any applicable Federal, State or local laws or regulations, provided that such structures shall not violate the integrity of the dune in shape, dimension or function.

10/15/14
BPG

Other Conditions: (a) Grantee will indemnify, hold harmless and defend the Grantor for any claim arising from Activities on the Property; (b) Grantee has no responsibility to restore or repair natural forces damage; (c) Grantee makes no representations on sand volume, if any, to be placed on or in front of the Property or protective effects the Activities or EASTERN CHANNEL PROJECT will provide the Property; (d) Grantor acknowledges (i) any raised lands created seaward of a pre-project mean high water mark is the property of the State of North Carolina subject to the public trust; (ii) the fluctuating state of the ocean beach; and (iii) Grantee makes no representation on the precise location of either the most seaward boundary of the Property or the most landward extent of the public trust beach; (e) This Easement binds Grantor, runs with the title to the property, and terminates on December 31, 2045; (f) Grantor and signatories acting on its behalf warrant and covenant that ~~(i) Grantor's title to the Property is free and discharged from all right, title, claim or interest of the Grantor or anyone claiming by, through or under Grantor.~~ (ii) Grantor will hold harmless, indemnify and defend Grantee from such claims; and (iii) all signatories executing this instrument on behalf of Grantor have authority to do so; and (g) Grantee shall have the right to temporarily or permanently assign this easement to the federal, state, or county governments, or any agencies or department thereof or any governmental authority formed to implement beach nourishment, renourishment and/or stabilization related to the Eastern Channel Project.

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~~This easement is~~ shall be subordinate to any existing or future deeds of trust encumbering the Property.

IN WITNESS WHEREOF this instrument is executed by the Grantor under seal, and if an entity, Grantor has caused this instrument to be in the entity name by its duly authorized agent and its seal to be hereunto affixed, and TESTIMONY WHEREOF, the Grantor has executed this Easement this the ___ day of _____, 2014.

trust
encumbering
the
Property.
BPG

Signature: [Signature]
Print Name: BARRY GOLOB
Signature: [Signature]
Print Name: SHARI GOLOB

Signature: _____
Signature: _____
Print Name: _____
Print Name: _____

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

STATE OF _____
COUNTY OF _____

I, Jasmine Lee
A Notary Public of the County and State aforesaid,
Certify that Barry Golob
And Shari Golob
Personally appeared before me this day and
acknowledged the execution of the foregoing
instrument.

I, _____
A Notary Public of the County and State aforesaid,
Certify that _____
And _____
Personally appeared before me this day and
acknowledged the execution of the foregoing
instrument.

Witness my hand and official stamp or seal, this 18
day of October, 2014.

Witness my hand and official stamp or seal, this _____
day of _____, 2014.

Jasmine Lee
Notary Public
My Commission expires: 2/4/19

Notary Public
My Commission expires: _____

Jasmine Lee
Notary Public
Brunswick County, NC
Commission Expires 2/4/19

Signature: _____



October 1, 2014

BARRY P. GOLOB
SHARI S. GOLOB
10820 HOB NAIL COURT
POTOMAC, MD 20854

RE: Placement of Sand on the Beach - West End of Oak Island – Request for Construction Easement

Dear Sir or Madam:

The Town of Oak Island is proceeding with a project plan for beach nourishment on the west end of the island using the sand dredged from the Eastern Channel to enhance the beach along the westernmost ocean shoreline, which is badly eroded. The final Project area is yet to be determined. The exact quantity of available sand to be placed is subject to change, but the preliminary area would be from 51st Place West to 69th Place West. **Again, this will be subject to sand quantity availability.**

Because work on the beach involves the placement of sand, laying of pipes, and using heavy equipment, we are asking for an easement on your property in order to enter the property for this project and any subsequent renourishments needed to maintain the beach in that area for the next 30 years. The affected area on your property would be that portion of the property, if any, which (i) is seaward of the first line of stable vegetation, or (ii) is seaward of the toe of the frontal sand dune adjacent to the beach, or (iii) is seaward of the crest of the erosion escarpment, or whichever feature is most landward. The definitions of the vegetation line, frontal dune, primary dune and erosion escarpment shall be those definitions set forth in 15A North Carolina Administrative Code § 7H.0305.

We need your assistance in this effort.

The Town Attorney has prepared easement documents for your signature. **Time is of the essence as there are homes currently at risk due to accelerated erosion in that the Project area and the Project must be completed within in the environmental window of between November 1st and March 30th. The Town needs copies of the easement agreement executed, notarized and returned to Town Hall by October 27, 2014.** (Mailing Information below.)

We hope you appreciate that the Town is trying to accommodate its residents and visitors by enhancing the beach and improving the navigation in the Eastern Channel. The Town has determined that there will be no compensation for this easement interest due to the fact that this project will protect and enhance property values in the subject Project area.

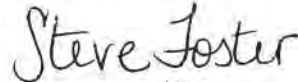
You may have questions about this process or the terms of the easements itself, and if so, you may contact:

Ms. Kathleen Snider
Management Assistant
4601 E. Oak Island Drive
Oak Island, NC 28465
Telephone: (910) 201-8015
Email: ksnider@ci.oak-island.nc.us

The Town Council, which has directed the beach nourishment process to go forward, has insisted that we comply with the project deadline but also be respectful of the individual concerns of any property owner(s). The Town is hopeful it will obtain the necessary easements voluntarily as that will help move the project along in the aforementioned timeline. It is the Town's intention to move forward in 2014/15 environment window provided all necessary permits can be procured by that time. Should there be a delay from the permitting agencies it may be delayed to the 2015/16 window. The Town cannot guarantee that every lot in the project area will receive sand but every effort will be taken to do so depending on sand quantities available.

The Town would like to thank you in advance for your cooperation on this important project.

Sincerely yours,



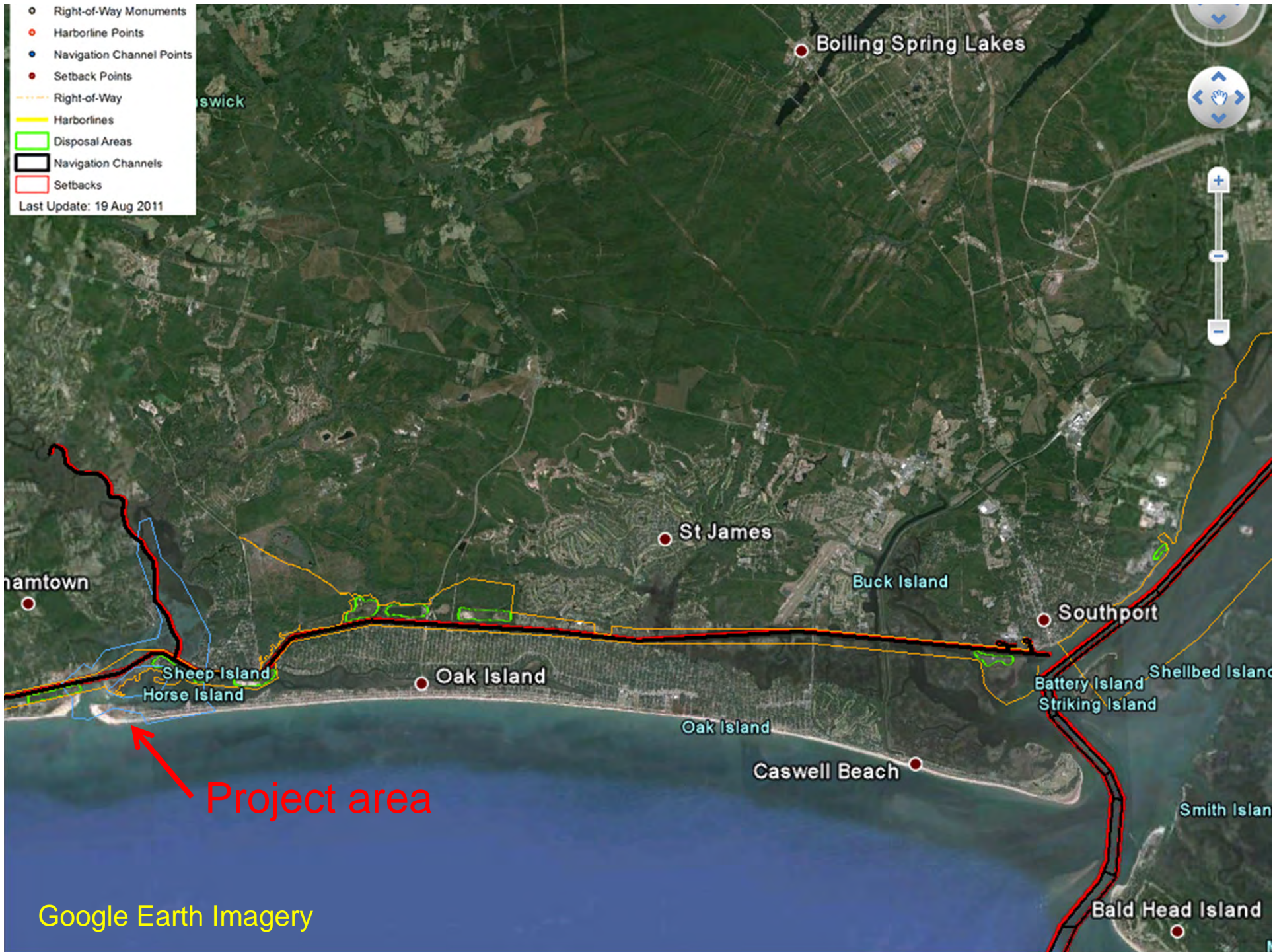
Steve Foster /KS
Town Manager

Enc.

Barry Golob et al.
VARIANCE REQUEST

Oak Island
Brunswick County
November, 2014

- Right-of-Way Monuments
 - Harborline Points
 - Navigation Channel Points
 - Setback Points
 - Right-of-Way
 - Harborlines
 - Disposal Areas
 - Navigation Channels
 - Setbacks
- Last Update: 19 Aug 2011



Google Earth Imagery

Oak Island, NC
2010 Imagery



Legend

IHA (current)	Shoreline Change (early to 2009)
IHA (proposed)	ACCRETING
Parcels (6615, 6617, 6621, 6623)	ERODING
Static Vegetation	



Source: Esri, DigitalGlobe, GeoEye, IGN, GeoEye, Earthstar Geographics, CNR/Air Force, USDA, AeroGRID, IGN, SIA, User Generated Content



Project site

Photo taken from the southeast
9/29/14

Photo taken Oct 2013



Golob property facing south



Golob property
Facing north

Photo taken
Oct 2013

Photo taken Oct 2013
Facing west from Golob deck



Davenport access "stairs"

Golob stairs

Covered sandbags

Project site facing east
June 18, 2014





Litz foundation piling



Davenport property

Golob stairs

Project site facing east
October 17, 2014



Litz stairs

Covered sandbags

Davenport property

Project site facing west
June 18, 2014



Litz house



Atkinson stairs



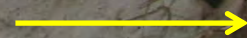
Davenport property

Project site facing west
September 8, 2014

Litz house

Davenport house

Golob property



Project site facing west
September 8, 2014





Golob house

Project site facing west
September 8, 2014



Atkinson stairs

Litz house

Davenport house

Project site facing west
September 16, 2014

Litz house

Davenport house

Project site facing west
September 24, 2014





Litz house

Davenport house

Project site facing west
November 7, 2014



Project site facing west
November 7, 2014 (morning after full moon)



Project site facing west
November 7, 2014 (morning after the full moon)



Atkinson house

Project site facing east
September 8, 2014

A photograph showing a wooden pier structure on a beach. The pier is made of dark wood and has several sets of stairs leading down to the water. In the foreground, there is a large pile of white sandbags. To the left, there is a sand dune. The ocean is visible in the background, and a few people can be seen swimming in the water. The sky is blue with some clouds.

Atkinson house

Project site at Atkinson property
facing east
September 16, 2014



Atkinson house

Project site at Atkinson property
facing east
September 16, 2014

Atkinson house



Project site at Atkinson property
facing east
October 29, 2014