



Coastal Management
ENVIRONMENTAL QUALITY

PAT MCCRORY

Governor

DONALD R. VAN DER VAART

Secretary

BRAXTON DAVIS

Director

November 30, 2015

Colonel Kevin P. Landers, Sr.
U.S. Army Corps of Engineers
69 Darlington Avenue
Wilmington, N.C. 28403

Colonel Landers,

The purpose of this letter is to inform you that the North Carolina Department of Environmental Quality intends to study the removal of the southern component of the "New Inlet Dam" along the Cape Fear River at Zeke's Island in accordance with Section 14.6(h) of the 2015 Appropriations Act (NC Session Law 2015-241), entitled "Cape Fear Estuarine Resource Restoration" (for full text, see <http://www.ncleg.net/Sessions/2015/Bills/House/PDF/H97v9.pdf>).

In summary, Section 14.6(h) instructs the Department of Environmental Quality to conduct the following (paraphrased):

- (1) Notify the U.S. Army Corps of Engineers of the State's intent to study the removal of the Southern Component of the New Inlet Dam;
- (2) Issue a Request for Information for a firm capable of conducting an analysis of the costs and benefits of removing the Southern Component of the Dam, including necessary permits and approvals;
- (3) Request approval from the National Oceanic and Atmospheric Administration (NOAA) to adjust the boundary for the Zeke's Island component of the N.C. National Estuarine Research Reserve by moving the western boundary of the Zeke's Island Reserve 200 feet seaward and removing the area that lies between the current and new boundary from the Reserve, and adding equivalent acreage to the northern boundary of the Reserve from adjacent acreage at the Fort Fisher State Recreation Area; and
- (4) If NOAA approves the boundary adjustment described above, the NC Coastal Resources Commission is then required to amend the Reserve Components Rule (15A NCAC 070 .0105) as further described in the Act.

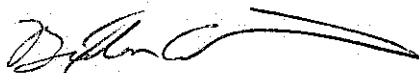


State of North Carolina | Environmental Quality | Coastal Management
400 Commerce Avenue | Morehead City, N.C. 28557
252.808.2808

The Division of Coastal Management is responsible for carrying out the steps outlined above. A report on the implementation of this Section is due to the NC General Assembly by April 1, 2016. Therefore, I would appreciate any initial comments that you may have concerning this study prior to February 1, 2016.

Please contact me at 252.808.2808 x202 or Braxton.Davis@ncdenr.gov if you would like to discuss further.

Sincerely,



Braxton Davis

Attachment

cc: Tom Reeder, Assistant Secretary, Department of Environmental Quality
Rebecca Ellin, Coastal Reserve Program Manager, Division of Coastal Management



- (22) The Secretary of Environment and Natural Resources for the waiver or modification of non-State cost-share requirements under G.S. 143-215.73G."

CAPE FEAR ESTUARINE RESOURCE RESTORATION

SECTION 14.6.(h) The General Assembly finds that the New Inlet Dam or "The Rocks" was constructed by the United States Army Corps of Engineers in the late 19th century. The New Inlet Dam is composed of two components, a Northern Component that extends from Federal Point to Zeke's Island and a Southern Component that extends southwestward from Zeke's Island and separates the New Inlet from the main channel of the Cape Fear River. The General Assembly further finds that the Southern Component of the New Inlet Dam impedes the natural flow of water between the Cape Fear River and the Atlantic Ocean that occurred prior to emplacement of the dam. The General Assembly further finds that it is necessary to consider removal of the Southern Component of the New Inlet Dam in order to reestablish the natural hydrodynamic flow between the Cape Fear River and the Atlantic Ocean. To this end, the Department of Environment and Natural Resources shall do all of the following:

- (1) Notify the United States Army Corps of Engineers of the State's intent to study the removal of the Southern Component of the New Inlet Dam.
- (2) Issue a Request for Information for a firm capable of conducting an analysis of the costs and benefits of removal of the Southern Component of the New Inlet Dam, including an inventory of all necessary State and federal permits and approvals needed to develop and implement a removal plan. Identification of a capable firm pursuant to this section shall be done in accordance with Article 8 of Chapter 143 of the General Statutes.
- (3) Request approval from the National Oceanic and Atmospheric Administration to adjust the boundary established for Zeke's Island for both of the following changes:
 - a. Moving the current western boundary 200 feet seaward and removing the area that lies between the current boundary and the new boundary from the North Carolina National Estuarine Research Reserve.
 - b. Compensating for any loss of acreage pursuant to sub-subdivision a. of this subdivision by adding a corresponding amount of acreage to the northern boundary of Zeke's Island from adjacent acreage at Fort Fisher State Recreation Area.
- (4) If the Department obtains approval from the National Oceanic and Atmospheric Administration to adjust the boundary established for Zeke's Island as described in subdivision (3) of this subsection, the Coastal Resources Commission shall amend 15A NCAC 070 .0105 (North Carolina Coastal Reserve: Reserve Components) as follows:
 - a. Definitions. - "Reserve Components Rule" means 15A NCAC 070 .0105 (North Carolina Coastal Reserve: Reserve Components) for purposes of this section and its implementation.
 - b. Reserve Components Rule. - Until the effective date of the revised permanent rule that the Coastal Resources Commission is required to adopt pursuant to sub-subdivision d. of this subdivision, the Commission and the Department of Environment and Natural Resources shall implement the Reserve Components Rule, as provided in sub-subdivision c. of this subdivision.
 - c. Implementation. - Notwithstanding the Reserve Components Rule, the Commission shall adjust the boundary established for Zeke's Island in conformance with any boundary change that is approved by the National Oceanic and Atmospheric Administration pursuant to subdivision (3) of this subsection.
 - d. Additional rule-making authority. - The Commission shall adopt a rule to replace the Reserve Components Rule. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this subdivision shall be substantively identical to the provisions of sub-subdivision c. of this subdivision. Rules adopted pursuant to this subdivision are not subject to Part 3 of Article 2A of Chapter 150B

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