



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

Donald R. van der Vaart
Secretary

NOTICE OF VIOLATION

March 26, 2015

CERTIFIED MAIL #7011 0110 0000 9947 1577
RETURN RECEIPT REQUESTED

Town of North Topsail Beach
c/o Stuart Turille, Town Manager
2008 Loggerhead Ct.
North Topsail Beach, NC 28460

RE: VIOLATION(S) OF CAMA MAJOR DEVELOPMENT PERMIT NO. 92-14
CAMA VIOLATION #15-05D

Dear Mr. Turille:

This letter is in reference to my letter dated February 27, 2015, and the Town's response from its authorized agent, Coastal Planning and Engineering of NC, PC via e-mail on March 20, 2015, for property located between 2276 & 2392 New River Inlet Road, adjacent to the Atlantic Ocean and located in the Town of North Topsail Beach, in Onslow County, North Carolina.

Information gathered by me for the NC Division of Coastal Management (DCM) shows that the Town of North Topsail Beach ("the Town") has violated the terms or conditions of CAMA/Dredge and Fill State Permit No. 92-14 ("the Permit") which was issued to the Town by the Coastal Resources Commission (CRC) and the North Carolina Department of Environment and Natural Resources. I hereby request that the Town immediately **CEASES AND DESISTS** such violation(s) and complies with the terms and conditions of the permit. If the terms and conditions of a permit are not complied with, the permit becomes null and void from the date of its issuance.

On October 24, 2014, the Permit was issued to the Town for the installation of a sandbag revetment within the project area. The sandbag revetment was authorized for dimensions measuring 6 feet in height by 20 feet in base width. The Division amended or modified the Permit on November 26, 2014, pursuant to the applicant's request, to allow for the installation of a larger sand bag revetment measuring 12 feet in height (elevation according to NAVD88) by 45 feet in base width. In addition, the permit modification authorized the installation of a "temporary construction containment tube," otherwise referred to as a "geotube," which was to be installed at the seaward-most toe of the sandbag revetment structure. A scour apron and "chock" tube was also authorized through this permit modification. This

authorization was granted with the terms that the scour apron and chock tube structures were to be placed no further oceanward than the seaward-most toe of the temporary containment tube that was used to construct the temporary sandbag revetment structure.

The Permit and its modifications were issued for major development in the Ocean Hazard and Inlet Hazard Areas of Environmental Concern (AEC), adjacent to the Atlantic Ocean, in accordance with North Carolina General Statutes N.C.G.S. 113A-118. The Permit included the following terms and conditions(s):

1. Condition No. 11: "In accordance with commitments made by the permittee, the authorized temporary construction containment tube used to assist in the safe construction of the authorized temporary sandbag revetment shall be removed in its entirety either immediately upon project completion, or by May 21, 2015, whichever is sooner. Additionally, should the Division of Coastal Management determine that the temporary construction containment tubes are no longer needed or are no longer serving their intended purpose of providing a safe work environment landward of the tubes, the tubes shall be removed immediately upon written notification by the Division."
2. Condition No. 13: "The scour apron and chock tubes shall extend no further oceanward than the oceanward toe of the temporary construction containment tube. All portions of the scour apron and chock tubes located oceanward of the temporary sandbag revetment shall be removed in their entirety at the same time as the associated temporary construction containment tubes."

For the following reasons, the Town is in violation of the above terms and conditions(s) of said permit:

1. The North Carolina Division of Coastal Management received notification from the Town's authorized agent, Coastal Planning and Engineering of NC, PC; via email on February 24, 2015, indicating that the installation of the sand bag revetment associated with the Permit was complete.
2. To date, as verified during a site visit on March 25, 2015, the temporary construction containment tubes and the temporary scour apron and "chock" tubes used for constructing the authorized sandbag revetment have not been removed.

To comply with the terms and condition(s) of the permit issued to the Town of North Topsail Beach, the Town must:

1. Remove the temporary construction containment tubes and all portions of the scour apron and chock tubes.

If the Town intends to cooperate with this request, the person authorized by the Town is requested to please sign one of the attached Restoration Agreements and return it in the enclosed, self-addressed envelope within ten (10) days of receipt of this letter. Failure to comply with this request or respond back to this office prior to the requested deadline with an acceptable schedule for compliance will be

Town of North Topsail Beach

March 26, 2015

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interpreted as a refusal or failure to cooperate and may result in a Notice of Continuing Violation, a court injunction being sought ordering compliance, or other enforcement action.

A civil assessment of up to \$10,000 plus investigative costs may be assessed against any violator. Each day that the development described in this Notice is continued or repeated may constitute a separate violation that is subject to an additional assessment up to \$10,000.

The relevant statutes and regulations are available from this office, and I am willing to assist the Town in complying with the requirements of these laws. A site inspection will be made in the near future to determine whether this **REQUEST TO CEASE AND DESIST** has been complied with. I request that you as Town Manager please contact me immediately at (910) 796-7215 to discuss resolution of this important matter.

Thank you for your time and cooperation. Upon completion of the restoration as requested in the Restoration Plan Agreement and to the satisfaction of the Division of Coastal Management, the Town will be notified as to the amount of the civil assessment for failure to comply with the terms, conditions, or requirements of the permit.

Sincerely,



Debra D. Wilson
District Manager

cc (w/enc.): Braxton Davis, Director, DCM
Roy Brownlow, Compliance Coordinator, DCM
Christy Goebel, Assistant Attorney General
Tyler Crumbley, USACE
Brian Edes, Attorney for North Topsail Beach

RESTORATION PLAN

For

Town of North Topsail Beach Property

C/o Mr. Stuart Turille, Town Manager

CAMA Violation No. 15-05D

Property located between 2276 & 2392 New River Inlet Road, Onslow County

1. Remove the temporary construction containment tube and all portions of the scour apron and chock tubes.

I, Mr. Stuart Turille, on behalf of the Town of North Topsail Beach, agree to complete this restoration to the satisfaction of the Division of Coastal Management (DCM) by **April 26, 2015**, or provide an explanation for non-compliance and a reasonable request for time extension. When corrective actions are complete, I will notify the DCM so the work can be inspected.

SIGNATURE: _____

DATE: _____

It is the policy of the Coastal Resources Commission to assess a civil penalty plus investigative costs against all violations. The amount assessed will depend upon several factors, including the nature and area of the resources that were affected and the extent of the damage to them. If restoration is not undertaken or satisfactorily completed, a substantially higher civil assessment may be levied and an injunction may be sought to require restoration.