



SHORELINES – May 2010

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Terminal Groins – It's Tied at the End of Regulation

Football metaphor aside, by virtue of Session Law (SL) 2009-479, the North Carolina General Assembly requested the Coastal Resources Commission (CRC) to prepare a terminal groin feasibility and advisability report by April 1, 2010. Regulatory rules and statutory law currently forbid the use of *any* erosion control hard structures along the State's 325 miles of oceanfront. However in the middle phase of the past decade, a few local governments became interested in terminal groins as a means to retain beach nourishment sand near inlets in an effort to help protect property and infrastructure.

A terminal groin as hinted immediately above is essentially a morphing of a jetty and a groin – ideally a terminal groin will impound only enough sand to straighten the shoreline adjacent to an inlet. Any additional sand would move either over, around, or through the groin toward an inlet. A jetty on the other hand is a navigational structure designed to preclude as much sand as possible from shoaling an inlet. And conversely, a groin usually refers to a permeable or impermeable shore perpendicular structure located along the open oceanfront designed to trap sand and extends from the dry sandy beach and into the ocean. Hence the word "terminal" meaning at the end of an island, and "groin" in its traditional function as a sand trap.

In the 2007 General Assembly biennial long session, terminal groin legislation was introduced and passed in the Senate (Senate Bill 599) but never was considered by the House in either the 2007 long or 2008 short session. Terminal groin legislation was again introduced in the General Assembly's 2009 long session (Senate Bill 832); and again passed the Senate but stalled in the House. However SL 2009-479 was passed as a substitution, and mandated a technical study that would consequently support recommendations in what was termed as a "feasibility and advisability report". Issues pertaining to the effectiveness of terminal groins previously constructed in North Carolina and other states, cost analysis, environmental impact analysis, and a review of engineering techniques and technological advances that minimizes impacts, and other issues were performed by the engineering firm of Moffatt & Nichol at a cost of just under \$300,000. However any policy conclusions included in the final report were 100% under the purview of the CRC, which as most of us know is a 15-member group appointed by the Governor that establish policies for the N.C. Coastal Management Program and adopts rules that the N.C. Division of Coastal Management enforce.

The CRC's recommendations are a big deal – hard structures have been a big "no no" in the State for over a quarter of a century and with a favorable decision by the CRC supporting terminal groins, the General Assembly would be hard pressed to go against that recommendation. Conversely, a CRC recommendation strongly affirming the State's practical "ban" on hard structures would almost certainly mean a rapid demise in the terminal groin push.

With a \$300,000 report in hand and after well over 10 meetings of one kind or another, the CRC developed a recommendation with the chairman aiming to achieve consensus. In an 8-5 vote, the following recommendation was adopted;

“The General Assembly directed the CRC to conduct a study on the feasibility and advisability of the use of terminal groins as an erosion control device. The study determined that terminal groins, in combination with beach nourishment, can be effective at controlling erosion at the end of barrier islands. The individuality of inlets necessitates site specific analysis. The study findings were mixed regarding the effects of terminal groins on wildlife habitat and marine resources. If it is the desire of the General Assembly to lift some of the limitations specific to terminal groins, due to the individual nature of inlets, the following factors must be effectively met:”

The factors mentioned in the recommendation are too verbose if quoted directly for this article but pertains to third party reviews, adjacent property owner notification, post construction monitoring, financial assurances to remove the terminal groin if it fails to perform as designed, etc. There were a total of eight factors that can be reviewed at <http://dcm2.enr.state.nc.us/News/2010%20Releases/CRCtgreccs.html>.

So what does the CRC recommendation mean? Well in keeping with the spirit of our football metaphors, the entire terminal groin game continues to be played between the 40-yard lines. The CRC nor the N.C. Division of Coastal Management wanted any part of terminal groins in the mid-2000s and in effect forced the gridiron kickoff to the General Assembly back in 2007. The General Assembly punted the terminal groin pigskin to the CRC by virtue of SL 2009-479, and the CRC has now politely return punted the ball back to the General Assembly.

Going back into the huddle, the General Assembly has no clear guidance because there is no statement to the effect of EITHER; (1) keep the ban in place, OR (2) allow terminal groins. The ban remains in effect and the General Assembly can change the statutory law if they want to. That’s the exact same game situation as it was yesterday, the day before, the week before, the year before, etc.

In the often blurred line between politics and philosophy, both opponents and proponents of terminal groins can claim small victories and momentum as we go into overtime. Opponents can point to the inconclusive nature and uncertainties of the report as simply not providing a compelling reason to change the current policy. On the other side of the coin, proponents can take the CRC’s official recognition that terminal groins can be effective at controlling erosion at the end of barrier islands as a springboard to keep lobbying the General Assembly for a permitting mechanism to allow terminal groins. The General Assembly officially convenes on May 12th for the short session – they could reconsider S832 that is still active from the 2009 long session (i.e., it made crossover), could develop an entirely new bill, or effectively go into another overtime period and start from scratch next year when a new biennial long and short session convenes. Stay tuned!