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Ms. Melissa Porter
Grants Program & Support
1700 N. Congress Avenue
Austin, TX 78701

Dear Ms. Porter:

Pursuant to the Texas Administrative Code, Title 31, Part1, Chapter 15, Subchapter A, Rule §15.17, the Nueces County Commissioners Court approved the attached Nueces County Draft Erosion Response Plan (ERP) by a vote of 4-0, with one Commissioner absent.

Along with the development of the draft ERP, a preliminary Dune Mitigation and Beach Access Improvement Plan is being developed and currently is being reviewed by County Staff. It is the intent of the County to append this plan to the draft ERP once the review is complete.

Should you have questions concerning this submission, please contact County Commissioner Joe McComb at (361) 888-0268.

Sincerely,

Samuel L. Neal, Jr.
Nueces County Judge

cc: Ms. Helen Young, Deputy Commissioner
Texas General Land Office

Nueces County Draft Erosion Response Plan

(PROPOSED APPENDIX I TO NUECES COUNTY BEACH MANAGEMENT PLAN)

A. Introduction.

1. Pursuant to the authority granted by Texas Natural Resources Code, §33.607, and in accordance with Texas Administrative Code Title 31(I)(Ch.15)(A)(§15.17), Nueces County has developed this DRAFT Erosion Response Plan for reducing public expenditures for erosion and storm damage losses to public and private property, including public beaches.

B. General Erosion and Flood Protection Requirements.

1. The Commissioners Court has established general erosion and flood protection requirements to accommodate a shoreline retreat per Section III. I. of the Nueces County Beach Management Plan (Plan). Section III. I. 1. i. further requires residential and commercial structures permitted after May, 2000 to be located at least 350 feet landward from the vegetation line (referred to as "Erosion Control Line" in this Draft ERP) unless no practicable development alternatives are possible. This requirement has been established to protect as much of the critical dune area as practicable.
 - a. To the maximum extent practicable, all structures should be constructed landward of the erosion control line.
 - b. Construction of structures landward of the erosion control line establishes a rebuttable presumption that the permittee has followed the mitigation sequence requirements for avoidance and minimization of effects on dunes and dune vegetation. However, the permittee is not exempt from compliance with compensatory mitigation requirements for unavoidable adverse effects on dunes and dune vegetation.
2. Exemptions from General Erosion and Flood Protection Requirements.
 - a. The Commissioners Court may consider exemptions from the prohibition of residential and commercial construction seaward of the erosion control line for:
 - i. properties for which the owner has demonstrated to the satisfaction of the Commissioners Court that no practicable alternatives to construction seaward of the erosion control line exist. For purposes of this section, practicable means available and capable of being done after taking into consideration existing building practices, siting alternatives, and the footprint of the structure in relation to the area of the buildable portion of the lot, and considering the overall development scheme for the property;
 - ii. properties for which construction is permitted under a dune protection and beach access plan establishing a erosion control line certified by the General Land Office prior to the effective date of this section;
 - iii. lots and tracts that have been platted prior to May 2000 and there is no practicable alternative for construction and the construction meets FEMA requirements; and
 - iv. structures located seaward of the erosion control line prior to the effective date of this section for which modifications are sought that do not increase the footprint of the structure.
3. Construction Requirements for Exempt Properties.
 - a. If the Commissioners Court allows an exemption from the prohibition for building seaward of the erosion control line, it should require the following conditions of construction:
 - i. plans and certifications for the structure by a registered professional engineer licensed in the State of Texas providing evidence of the following:
 - (1) a minimum two-foot freeboard above base flood elevation (BFE);
 - (2) no enclosures below BFE;

- (3) the adequacy of elevated building foundations and the proper placement, compaction, and protection of fill when used as construction for all newly constructed, substantially damaged, and substantially improved buildings elevated on pilings, posts, piers, or columns in accordance with the latest edition of specifications outlined in American Society of Civil Engineers, Structural Engineering Institute, Flood Resistant Design and Construction, ASCE 24-05;
 - (4) feasible relocation of any habitable structure; and
 - (5) all construction is designed to minimize impacts on natural hydrology;
 - ii. location of all construction should be landward of the landward toe of the foredune ridge, where practicable.
- C. Procedures for Preserving and Enhancing the Public's Right of Access to and Use of the Public Beach from Losses due to Erosion and Storm Damage.
 - 1. The Commissioners Court will direct:
 - a. evaluation of all areas of public access under County jurisdiction to determine those that require improved protection from erosion and storm surge;
 - b. evaluation of construction methods and design improvements for areas of beach access under County jurisdiction to reduce costs associated with repair, rebuild, or replacement due to storm damage and erosion;
 - c. list of goals and implementation schedules for areas of public access design improvements that prioritize short term (two years or less) and long term goals;
 - d. inventory of all publicly funded existing amenities and access ways as a basis for qualifying for FEMA post-storm funding sources;
 - e. establishment of procedures based on subparagraphs (a) and (b) of this paragraph for conducting post-storm assessment and identifying requirements for rehabilitation which include:
 - i. inspection of beach access areas after meteorological events;
 - ii. compilation of a list of access points that no longer comply with this Plan with a description of specific required repairs and replacements including, but not limited to parking, pedestrian and vehicular access ways, and signage; and
 - iii. schedules for access area repair and replacement based on available local funding and grant requests.
- D. Procedures for Preserving, Restoring, and Enhancing Critical Sand Dunes for Natural Storm Protection and Conservation Purposes.
 - 1. The minimum dune height of critical front row dunes necessary to protect public and private property from severe meteorological events should be based on at least 75% of the BFE height from mean sea level established by the National Flood Insurance Program Flood Insurance Rate Maps for the local area. The minimum dune vegetative cover should be 50%;
 - 2. Nueces County will conduct an inventory for the purposes of identification and listing of specific locations where restoration is needed to fill in gaps and blowouts in the foredune ridge;
 - 3. Nueces County will require specific proposals for dune revegetation projects, including the identification of native plant species to be used in these projects;
 - 4. Nueces County will require enhanced dune protection measures for existing residences, multi-family structures and businesses. Dune protection measures which protect the landward side of the foredune ridge, may include, but are not limited to:
 - a. use of native (indigenous) vegetation; and
 - b. limitations on the use of fertilizer and mowing;
 - 5. Nueces County will identify specific goals and implementation schedules to meet the requirements outlined in subparagraphs (A) - (D) of this paragraph; and
 - 6. Nueces County may identify available funding and proposed grant

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requests to accomplish goals and implementation schedules for dune restoration.

E. State Coastal Erosion Response Plan.

Nueces County must use historical erosion data and other relevant data from the State Coastal Erosion Response Plan, which can be found at:

<http://www.glo.state.tx.us/coastal/pubs.html#reports>

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