

SOUTHERN ENVIRONMENTAL LAW CENTER

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October 16, 2012

Via U.S. Mail and Electronic Mail

Mr. Tom Bradshaw
Executive Director
N.C. Ports Authority
2202 Burnett Boulevard
Wilmington, NC 28401

Mr. Eugene Conti
Secretary
N.C. Department of Transportation
1501 Mail Service Center
Raleigh, NC 27699-1501

Mr. Scott Saylor
President
N.C. Railroad Company
2809 Highwoods Boulevard
Suite 100
Raleigh, NC 27604

RE: Wood Pellet Storage Facility at Morehead City Port – SEPA Compliance and Public Document Request

Mr. Bradshaw, Secretary Conti, and Mr. Saylor:

We recently learned about the North Carolina Ports Authority's plan to build a \$70 million wood pellet storage facility at the Morehead City Port. Given that this project would be constructed on state land and with public money, the North Carolina Environmental Policy Act ("SEPA") must be complied with before actions are taken or investments are made. We write today on behalf of the North Carolina Coastal Federation and the Clean County Coalition to ask for clarification regarding the status of the environmental review of the project under SEPA and for related documents.

SEPA requires projects that involve public money or public land, require state action, and have the potential to affect the environment to undergo review pursuant to N.C. Gen. Stat. § 113A-1, *et seq.* This proposed storage facility appears to meet all three requirements. First, the project "involve[es] the expenditure of public moneys or use of public land." N.C. Gen. Stat. § 113A-4(2). As we understand the proposal, the project would be financed by the N.C. Railroad – a State owned company – and built on public property at the Morehead City Port and therefore involves both the expenditure of public moneys and the use of public land. Second, the action

would be undertaken by the N.C. Ports Authority, a state agency, and require permitting or authorization by other state agencies. Finally, the project would have a significant impact on the environment, including, but not limited to, impacts at the Port, to the town of Morehead City as a result of substantially increased train traffic, and to forests across the state that would be unsustainably harvested to provide wood pellets for export from the Port.

We have examined regulations issued by the Department of Administration and the Department of Transportation establishing "minimum criteria" for projects to require SEPA review. We have identified no regulations of either agency that would preclude the need for environmental review under SEPA.

This proposed project has the potential to cause significant adverse impacts to Morehead City, including its residents, visitors, local businesses, and environment. It also has the potential to cause significant adverse impacts to North Carolina forests from accelerated harvesting to meet the demand for wood pellet export. These impacts would be examined in a SEPA review of the project and thoroughly evaluated before any further steps are taken with respect to the project.

If the Ports Authority has already initiated the SEPA process we would appreciate an update on the status of that process. We also request under the Public Records Law, N.C. Gen. Stat. §§ 132-1 to 132-10, all records related to the proposed project. As used in this letter, "public records" includes all written, printed, recorded, or electronic materials, communications, correspondence, memoranda, notations, copies, diagrams, charts, tables, spreadsheets, formulas, directives, observations, impressions, contracts, letters, messages, e-mails, and mail in the possession or control of the North Carolina Ports Authority or the Department of Transportation. N.C. Gen. Stat. § 132-1. Please provide any electronic records in native file format.

Public records must be provided to a requestor "as promptly as possible" upon payment of any fees, which shall not exceed the actual cost of reproducing the public record. N.C. Gen. Stat. §§ 132-1, 132-6. Please contact Geoff Gisler at the Southern Environmental Law Center, ggisler@selcnc.org or (919) 967-1450, prior to any copying if that actual cost is expected to exceed \$50. We are certainly willing to work with you to facilitate the production of the requested public records.

Please let us know if you have any questions regarding this letter.

Sincerely,



Derb S. Carter



Geoffrey R. Gisler

Cc: (via email)
Rep. Pat McElraft
Danny McComas, NC Ports Authority
Todd Miller, North Carolina Coastal Federation
Dick Bierly, Clean County Coalition