

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 888

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/1/03

Short Title: Alter Waterflow/Impact on Adjacent Property.

(Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO PROTECT A PROPERTY OWNER WHOSE LAND IS ADJACENT OR
DOWNSTREAM FROM A SITE ON WHICH ALTERATIONS OF THE
EXISTING FLOW OF STORMWATER WILL OCCUR.

The General Assembly of North Carolina enacts:

SECTION 1. Article 21 of Chapter 143 of the General Statutes is amended
by adding a new section to read:

**"§ 143-214.7A. Protection of property owners adjacent to activities for which a
stormwater permit is issued.**

(a) As used in this section, the term 'permitting authority' means the State agency
or unit of local government agency that is legally responsible for reviewing an
application for and issuing a stormwater permit pursuant to G.S. 143-214.7.

(b) In reviewing an application for a stormwater permit and accompanying
stormwater plan, the permitting authority shall require an applicant to reveal any change
in the drainage pattern and to provide an analysis of the volume, velocity, and direction
of stormwater in the new drainage pattern. The applicant shall summarize any direct and
substantial physical impacts of the new drainage pattern and provide the summary to all
parties directly affected by the impacts. Any party directly and substantially affected by
the changed drainage pattern may submit comments to the permitting authority within
30 days of receiving the notice of the changed drainage pattern. An applicant for a
stormwater permit shall request each local government having jurisdiction over any part
of the land to which the proposed stormwater permit would apply to issue a
determination as to whether the local government has in effect a zoning, subdivision,
land-use planning, or stormwater control ordinance and whether the proposed
stormwater permit would contravene any applicable ordinance. The request to the local
government shall be accompanied by a copy of the stormwater permit application and
shall be delivered to the clerk of the local government personally or by certified mail.
The local government shall have 15 days after receipt of the request from the applicant
to issue a determination. The determination shall be verified or supported by affidavit

1 signed by the chief administrative officer, the chief administrative officer's designee, the
2 clerk, or other official designated by the local government to make the determination
3 and, if the local government states that the proposed stormwater permit would
4 contravene an applicable ordinance, shall include a copy of the ordinance and the
5 specific reasons for the determination. The local government shall forward the
6 determination to the permitting authority. A copy of the determination shall be provided
7 to the applicant when the determination is submitted to the permitting authority. The
8 permitting authority shall not issue a stormwater permit if a local government issues a
9 determination that the permit would contravene a regulation of drainage established
10 pursuant to a local zoning, subdivision, or land-use planning ordinance. The permitting
11 authority shall not act upon an application for a permit until it has received a
12 determination from each local government requested to make a determination by the
13 applicant.

14 (c) If the permitting authority issues a stormwater permit without resolving an
15 objection set out in comments submitted by a directly and substantially affected party,
16 the directly and substantially affected party may contest the action through the appeal
17 procedures applicable to the permitting authority."

18 **SECTION 2.** This act becomes effective 1 October 2003 and applies to
19 stormwater permit applications filed on or after that date.