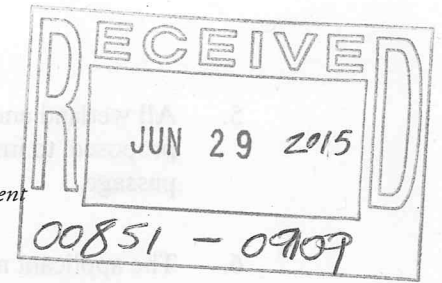




Catherine E. Heigel, Director

*Promoting and protecting the health of the public and the environment*



Public Notice # 2010-01157-3H (1)

Public Notice Date: June 25, 2015

### NOTICE OF DEPARTMENT DECISION – STATE CERTIFICATION

The Department, acting on an application for Water Quality Certification pursuant to Section 401 of the Federal Clean Water Act and for certification of consistency with the SC Coastal Zone Management Program in accordance with R. 48-39-10 et. seq. and 15 CFR 93 has reached a proposed decision for the project described below:

Horry County Public Works  
International Drive Improvements  
Waccamaw River Tributaries  
Horry County  
P/N 2010-01157-3H (1)

After reviewing the project plans, staff of the Bureau of Water determined that there is a reasonable assurance that the proposed project will be conducted in a manner consistent with the certification requirements of Section 401 of the Federal Clean Water Act. Additionally, staff of the Ocean and Coastal Resource Management determined that the proposed work is consistent with the Coastal Zone Management Program (48-39-10 et. seq. and 15 CFR 93). Accordingly, the Department proposes to certify the project with conditions as follows:

1. The applicant must implement appropriate best management practices that will minimize erosion and migration of sediments on the project site during and after construction. These practices should include the use of appropriate grading and sloping techniques, mulches, silt fences, or other appropriate devices. All disturbed land surfaces affected by the project must be stabilized.
2. The applicant must follow Horry County guidelines to control runoff and protect harmful contaminants from entering sensitive aquatic resources, as proposed. A final stormwater management plan must be in compliance with MS4 and other SCDHEC administered stormwater permitting requirements.
3. Only clean earthen material, free of all potential sources of pollution, may be used as fill.
4. Appropriate containment measures must be taken to prevent pollutants such as gasoline, oil, tar, and debris and other pollutants from entering the adjacent waters or wetlands.

5. All wetland and tributary crossings must be made with appropriately sized culverts, as proposed, to maintain natural stream morphology and allow unrestricted aquatic life passage.
6. The applicant must compensate for unavoidable project impacts by providing a minimum of 287.8 mitigation credits to compensate for wetland impacts. Credit documentation from the proposed Bass Lake Mitigation Tract III permittee responsible site must be submitted to SCDHEC and the Corps of Engineers prior to the work beginning.
7. Annual monitoring reports, as proposed in the Bass Lake Mitigation Tract III monitoring plan dated December 18, 2014, must be submitted to the SCDHEC for a period of five years after issuance of a Department of Army permit or until performance standards are met.

The SC Department of Health and Environmental Control reserves the right to impose additional conditions on this Certification to respond to unforeseen, specific problems that might arise and to take any enforcement action necessary to ensure compliance with State standards.

The evaluation of the proposed work was conducted by the Bureau of Water and the Office of Ocean and Coastal Resource Management. A copy of the staff assessment supporting the proposed decision is enclosed. A copy of plans submitted by the applicant is available for review in the office of the Division of Water Quality, Bureau of Water or at the Office of Ocean and Coastal Resource Management. Additional information about the technical aspects of this application is available from Mark A Giffin, the project manager, at 803-898-4179.

The final State Certification will be issued if a request for a review conference is not granted by the Department.

The issuance of this Notice of Department Decision represents a final staff decision that may be appealed. Please see the attached appeal procedures for details.



Chuck Hightower, Manager  
Water Quality Certification,  
and Wetlands Section

cc: US Army Corps of Engineers  
Charleston District Office  
SC DHEC, Myrtle Beach EQC Office  
OCRM

**Guide to Board Review**  
**Pursuant to S.C. Code Ann. § 44-1-60**  
**Effective May 8, 2014**

The decision of the South Carolina Department of Health and Environmental Control (Department) becomes the final agency decision fifteen (15) calendar days after notice of the decision has been mailed to the applicant, permittee, licensee and affected persons who have requested in writing to be notified, unless a written request for final review accompanied by a filing fee in the amount of \$100 is filed with Department by the applicant, permittee, licensee or affected person.

Applicants, permittees, licensees, and affected parties are encouraged to engage in mediation or settlement discussions during the final review process.

If the Board declines in writing to schedule a final review conference, the Department's decision becomes the final agency decision and an applicant, permittee, licensee, or affected person may request a contested case hearing before the Administrative Law Court within thirty (30) calendar days after notice is mailed that the Board declined to hold a final review conference. In matters pertaining to decisions under the South Carolina Mining Act, appeals should be made to the South Carolina Mining Council.

**I. Filing of Request for Final Review**

1. A written Request for Final Review (RFR) and the required filing fee of one hundred dollars (\$100) must be received by Clerk of the Board within fifteen (15) calendar days after notice of the staff decision has been mailed to the applicant, permittee, licensee, or affected persons. If the 15th day occurs on a weekend or State holiday, the RFR must be received by the Clerk on the next working day. RFRs will not be accepted after 5:00 p.m.
2. RFRs shall be in writing and should include, at a minimum, the following information:
  - o The grounds for amending, modifying, or rescinding the staff decision;
  - o a statement of any significant issues or factors the Board should consider in deciding how to handle the matter;
  - o the relief requested;
  - o a copy of the decision for which review is requested; and
  - o mailing address, email address, if applicable, and phone number(s) at which the requestor can be contacted.
3. RFRs should be filed in person or by mail at the following address: South Carolina Board of Health and Environmental Control Attention: Clerk of the Board

2600 Bull Street  
Columbia, South Carolina 29201

Alternatively, RFR's may be filed with the Clerk by facsimile (803-898-3393) or by electronic mail ([boardclerk@dhec.sc.gov](mailto:boardclerk@dhec.sc.gov)).

4. The filing fee may be paid by cash, check or credit card and must be received by the 15th day.
5. If there is any perceived discrepancy in compliance with this RFR filing procedure, the Clerk should consult with the Chairman or, if the Chairman is unavailable, the Vice-Chairman. The Chairman or the Vice-Chairman will determine whether the RFR is timely and properly filed and direct the Clerk to (1) process the RFR for consideration by the Board or  
  
(2) return the RFR and filing fee to the requestor with a cover letter explaining why the RFR was not timely or properly filed. Processing an RFR for consideration by the Board shall not be interpreted as a waiver of any claim or defense by the agency in subsequent proceedings concerning the RFR.

6. If the RFR will be processed for Board consideration, the Clerk will send an Acknowledgement of RFR to the Requestor and the applicant, permittee, or licensee, if other than the Requestor. All personal and financial identifying information will be redacted from the RFR and accompanying documentation before the RFR is released to the Board, Department staff or the public.
7. If an RFR pertains to an emergency order, the Clerk will, upon receipt, immediately provide a copy of the RFR to all Board members. The Chairman, or in his or her absence, the Vice-Chairman shall based on the circumstances, decide whether to refer the RFR to the RFR Committee for expedited review or to decline in writing to schedule a Final Review Conference. If the Chairman or Vice-Chairman determines review by the RFR Committee is appropriate, the Clerk will forward a copy of the RFR to Department staff and Office of General Counsel. A Department response and RFR Committee review will be provided on an expedited schedule defined by the Chairman or Vice-Chairman.
8. The Clerk will email the RFR to staff and Office of General Counsel and request a Department Response within eight (8) working days. Upon receipt of the Department Response, the Clerk will forward the RFR and Department Response to all Board members for review, and all Board members will confirm receipt of the RFR to the Clerk by email. If a Board member does not confirm receipt of the RFR within a twenty-four (24) hour period, the Clerk will contact the Board member and confirm receipt. If a Board member believes the RFR should be considered by the RFR Committee, he or she will respond to the Clerk's email within forty-eight (48) hours and will request further review. If no Board member requests further review of the RFR within the forty-eight (48) hour period, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Final Review Conference. Contested case guidance will be included within the letter.

NOTE: If the time periods described above end on a weekend or State holiday, the time is automatically extended to 5:00 p.m. on the next business day.

9. If the RFR is to be considered by the RFR Committee, the Clerk will notify the Presiding Member of the RFR Committee and the Chairman that further review is requested by the Board. RFR Committee meetings are open to the public and will be public noticed at least 24 hours in advance.
10. Following RFR Committee or Board consideration of the RFR, if it is determined no Conference will be held, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Conference. Contested case guidance will be included within the letter.

## **II. Final Review Conference Scheduling**

1. If a Conference will be held, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, informing the Requestor of the determination.
2. The Clerk will request Department staff provide the Administrative Record.
3. The Clerk will send Notice of Final Review Conference to the parties at least ten (10) days before the Conference. The Conference will be publically noticed and should:
  - include the place, date and time of the Conference;
  - state the presentation times allowed in the Conference;
  - state evidence may be presented at the Conference;
  - if the conference will be held by committee, include a copy of the Chairman's order appointing the committee; and
  - inform the Requestor of his or her right to request a transcript of the proceedings of the Conference prepared at Requestor's expense.