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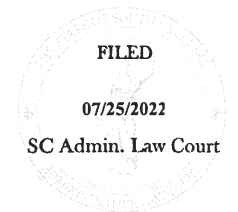
SC Court of Appeals

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

KDP II, LLC,	)	DOCKET NO. 18-ALJ-07-0047-CC
	)	
Petitioner,	)	
	)	
v.	)	<b>ORDER</b>
	)	(Denying Motion for Reconsideration)
South Carolina Department of Health	)	
and Environmental Control,	)	
	)	
Respondent.	)	
	)	
	)	
	)	

By final order dated June 24, 2022, this Court established the baseline and setback lines for an area known as Captain Sams Spit. On July 5, 2022, Petitioner KDP, II, LLC (Petitioner) filed a motion for reconsideration and to alter or amend this Court’s order pursuant to ALC Rule 29 and Rule 59(e), SCRCP.

Petitioner maintains the Court erred in its ruling as it “overlooked, misunderstood, or failed to consider important evidence and legal principles.” In its motion, Petitioner set forth a number of particulars including: (1) the most seaward line of vegetation is not a proxy for the most landward point of erosion; (2) the Court failed to properly apply Section 48-39-280 (A)(2) of the South Carolina Code; (3) the Court mistakenly overlooked the significance of accretion on the beach at Captain Sams Spit from 1999 through 2017 in determining the location of the baseline; (4) the Court erred in determining the shoreline was unlikely to return its former position and in “inventing” a standard for locating the baseline under those circumstances; (5) the Court erred in concluding the vegetation line evidenced in a 1988 aerial photograph was the most landward position of the shoreline in the last forty years; (6) the Court erred in finding a 1982 aerial photograph depicted an escarpment; (7) the Court erred in rejecting the testimony of Andrew Tolleson, P.E., D.G.E., Petitioner’s expert witness, in favor of a South Carolina Department of Health and Environmental Control (Department) non-expert; and (8) the Court erred in failing to conclude John A. Hodge, B.S., M.S., J.D., Petitioner’s expert witness, provided the sole credible proof of the most landward point of erosion in the last forty years, and that Mr. Hodge’s post-Irma line is the correct location of the baseline.



The Court has given thoughtful consideration to the arguments raised in Petitioner's motion. For the reasons outlined in this Court's final order of June 2, 2022, and in the Department's return, Petitioner's motion is respectfully denied.

**IT IS HEREBY ORDERED** that Petitioner KDP, II, LLC's motion is **DENIED**.

**AND IT IS SO ORDERED.**



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**SHIRLEY C. ROBINSON**

Administrative Law Judge

July 25, 2022  
Columbia, South Carolina

**CERTIFICATE OF SERVICE**

I, Ti'a Smith, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).



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Ti'a Smith  
Judicial Law Clerk

July 25, 2022  
Columbia, South Carolina

