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**Aug 02 2023**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY  
Circuit Court for the Eleventh Judicial Circuit

Debra R. McCaslin, Circuit Court Judge

App. Case No. 2022-000597

Suzan Garland.....Respondent,

vs.

Robert Cade and Christy Cade ..... Appellants.

**APPENDIX TO THE RECORD ON APPEAL**

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**APPENDIX**

**INDEX  
VOLUME I**

Record on Appeal.....1-474

**VOLUME II**

Record on Appeal.....475-942

**VOLUME III**

Record on Appeal.....943-1325

**APPENDIX:**

Plaintiff's Exhibit 10.....1326-1327

## **CONCLUSIONS**

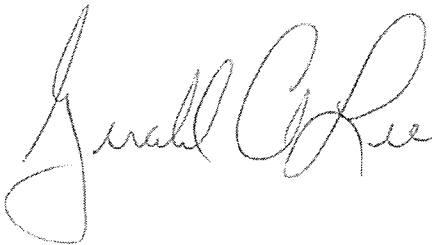
The purpose of this report was to determine if the clearing of the property could be contributing to the alleged adverse impacts to the pond downstream. The short answer is yes. The extent and type of adverse impacts is yet unknown however based upon this observation it is likely they are experiencing high levels of turbidity in their pond and an accumulating silt layer as the suspended particles being carried downstream settle out of the water column. This is an environmental impact that directly affects the health of the pond.

Also, by removing the vegetation on the site the runoff characteristics have been altered and a more detailed study that is beyond the scope of this report would be required to quantify the overall impact to the drainage basin. The downstream impacts resulting from the denuding of the site would be, not only runoff laden with suspended particles, but also an increased volume of runoff and rate of runoff now being received downstream. A majority of the site drains directly into the wetlands below the pond with no sediment control measures in place to control the loss of soil.

To avoid litigation from the downstream property owner you should work with the County to bring the site into a compliant and stable condition.

It is a pleasure to provide our engineering service to you. Please do not hesitate to call us if you have any questions.

Sincerely,  
Chao and Associates, Inc.



Gerald A. Lee, PE  
Director of Civil Engineering



## Robert Cade site visit

Don not put in report but mention to him: Spoke with Kim Swaggert with Lexington County and she said he should have filed for a permit before he started building the structures even though he called it a barn it still required a land disturbance permit because he introduced impervious areas. Lawyers are now involved and any information would need to be a FOIA request.

Entire site has been cleared except for a buffer around the perimeter and along the wetlands/discharge

Per owner site is zoned agricultural and no land disturbance permit is required for clearing operations

Owner intends to plant and harvest two cycles of hay then keep livestock on the property.

Evidence of some concentrated flows near the creek and wetlands however did not observe any alluvial deposits in the stream itself. There are debris piles from the clearing activities along the buffers where needed but at the time of the observation there was no silt fence and no water coming out of the pond outlet even though the area experienced several inches of rain for three days prior to the site visit.

The owner indicated that the complaint was after hurricane Florence and Michael. The property had been cleared prior to these storms. These were extreme rainfall events as was the three days of rain experienced immediately prior to my site visit.

The onsite soils were a mixture of sandy loam with kaolin clay clumps visible on the surface. Clay particles are smaller and stay suspended longer take longer to settle out. Surface water would carry the particles but they would not settle out. Evidence of clay siltation was found downstream at Davis Drive where overbank flows sit and the clays settle out. The flowing water channel was not silted and was covered with organic debris. However the flowing water did have some turbidity. It is this water that becomes still when it reaches the downstream pond and the particles have time to settle out.

I did not have access to the downstream pond so I cannot comment on the extent of the alleged impact. But by my observations of the conditions of the discharge as it crosses under Davis Drive I can only say that there potentially could be an impact and advised the owner of his responsibility to protect downstream impacts even if a land disturbance permit is not required.

Need to plant some type of ground cover either temporary or permanent. It would also help to furrow the property along the contouring as is typical practice in farming to prevent movement of sediment.

An engineer could be retained to assist in the design of sediment control measures.