Exhibit 2

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

William P. Scurry and J & W Corporation of Greenwood, Petitioners, vs. South Carolina Department of Health and Environmental Control and Simmons Family Holdings, LLC, Respondents.	Docket No. 22-ALJ-07-0033-CC **ORDER ON MOTIONS TO ALTER OR AMEND**

Appearances of Counsel:

Thomas C. Taylor, Esq.
For William P. Scurry and J & W Corporation of Greenwood

Michael S. Traynham, Esq.
For Simmons Family Holdings, LLC

Bradley Churdar, Esq.
For South Carolina Department of Health and Environmental Control

Statement of the Case

This matter is pending before the South Carolina Administrative Law Court (the Court or the ALC) pursuant to a request for a contested case hearing filed by William P. Scurry and J & W Corporation of Greenwood (collectively, Petitioners). Petitioners challenge a determination of the South Carolina Department of Health Environmental Control (DHEC) to issue a critical area permit to Simmons Family Holdings, LLC (SFH) authorizing it to construct a marina within extended property lines of property owned by SHF on Broad Creek in Beaufort County, South Carolina.

This matter was assigned to the undersigned on February 3, 2022. On March 3, 2022, DHEC filed its agency information sheet and notices of appearance. On March 9, 2022, the Court ordered the parties to file and serve prehearing statements, and the parties did so.

A merits hearing was subsequently held on April 26th and 27th, 2023. On the second day of trial and at the conclusion of Petitioners' case, both Respondents moved for a directed verdict pursuant to Rule 50(a), SCRCP and SCALCR 68 ("[t]he South Carolina Rules of Civil Procedure and the South Carolina Appellate Court Rules, in contested cases and appeals respectively, may, in the discretion of the presiding administrative law judge, be applied to resolve questions not addressed by these rules"). The Court denied the motion for directed verdict on all grounds except that of exhaustion of administrative remedies. The Court requested additional authority on this issue and permitted the parties to supply any such authority to the Court no later than May 9, 2023. Post-trial motions, if any, were due on the same date.

On May 9, 2023, Respondent Simmons Family Holdings, LLC ("Simmons") submitted its renewed motion for directed verdict and statement of additional legal authority. Petitioners submitted a response. Respondent South Carolina Department of Health and Environmental Control joined Simmons Family Holdings motion.

The Court denied the motion for directed verdict or involuntary nonsuit by Simmons and proceeded to a ruling on the merits. On April 27, 2023, at the conclusion of trial, the parties were given thirty days to submit proposed orders in lieu of closing arguments following the completion of the hearing transcript. On July 13, 2023, the parties both filed proposed orders.

The Court issued its final order on August 16, 2023. The Department filed a motion for reconsideration under SCALC Rule 29(D) on August 25, 2023. Petitioners filed a motion for reconsideration on August 26, 2023. Respondents and the Department filed a response to the Petitioners' motion on September 1, 2023. For the reasons discussed below, the Court grants the Department's motion and denies the Petitioners' motion.

I. Standard of Decision

SCALC Rule 29(D) provides that any party move for reconsideration of a final decision of an administrative law judge in a contested case to alter or amend the final decision, subject to the grounds for relief set forth in Rule 59, SCRCP. A motion under Rule 59(e) is often used to correct a factual error or address an error of law, but it is also proper to use a Rule 59 motion not only as a vehicle to request the trial court "alter or amend the judgment," but also as a vehicle to seek "reconsideration" of issues and arguments. *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 21–22, 602 S.E.2d 772, 778–79 (2004) ("[i]t is absolutely necessary *to justice,* that there should, upon many occasions, be opportunities of *reconsidering* the cause by a new trial." 11 Wright, Miller & Kane

§ 2801 (quoting a 1757 opinion written by an English judge) (emphasis in original); 12 *Moore's Federal Practice* 59 App. 102 (even before 1946 amendment adding subdivision (e) to Rule 59, courts routinely found that motions seeking such relief as rehearing or reconsideration were proper under Rule 59, although the motions were not literally or technically motions for a new trial) (emphasis in original).

II. The Department's Motion

The Department filed a motion for reconsideration "for the limited purpose" of clarifying the Court's intended mechanism of revising the critical area permit at issue. The Department seeks to know whether the Court intended to remand the matter to DHEC so that DHEC could issue a permit in accordance with the Court's instructions or whether the Court intended the August 16, 2023 Order to function as a permit amendment itself. Neither Petitioners nor the remaining Respondent objected to the Department's motion.

While the format of the statement of judgment in the Court's order mirrored the very format used by Respondents in the joint proposed order they submitted the Court, in hindsight, the Court can comprehend how someone unfamiliar with the proceedings in this case could be confused by the language of the Court's order. The Court therefore GRANTS the Department's motion. The Court's Final Order and Judgment is hereby amended to provide that the matter is remanded to the Department for the issuance of a permit in compliance with the terms of the Court's order.

II. Petitioners' Motion

Petitioners seek reconsideration of several matters, with the goal of seeking reversal of the Court's prior decision to authorize the Department to issue the critical area permit as amended. Specifically, Petitioners argue that the Court: (1) erroneously admitted hearsay evidence regarding an admission by Mr. Scurry that he could navigate in and out of Barge Creek if mooring dolphins were installed on the marina; (2) misapprehended the location of the former Simmons' dock; (3) misconstrued the testimony of Captain Daley; and (4) the evidence indicates that the Department erred in making numerous conclusions, with the result that the Court should not have affirmed these conclusions.

Respondents make several arguments in opposition to Petitioners' motion. They counter that Mr. Scurry's admission was properly received in evidence, and, even if it was not, the error is harmless. They further argue that Petitioners' remaining arguments are simply requests that the

Court view the evidence admitted in a different fashion. Finally, Respondents address each of the individual issues about which Petitioners complain.

After careful consideration of the record and submissions of the parties, the Court DENIES Petitioners' motion for the reasons set forth herein.

A. Mr. Scurry's Admission

Petitioners argue forcefully that Mr. Scurry's admission was improperly admitted. They assert that the statement was not made to Mr. Blair Williams, manager of the Department's critical area permitting program, but to a different DHEC employee who subsequently related the communication to Mr. Williams. While Petitioners agree that Mr. Scurry's statement itself was not hearsay, they contend that the later statement by another employee to Mr. Williams was hearsay.

A review of the events which occurred at trial is helpful to assess this argument and is set forth below:

At trial, the Department called Blair Williams as witness. Mr. Williams discussed conversations and communications with Mr. Scurry and, when he began to refer to a communication from Mr. Scurry involving mooring piles, Petitioners' counsel objected to the testimony based on hearsay. Tr. at 317. When the Court noted that the statement in issue was one made by counsel's own client and used against him by the opposing party, Petitioners' counsel stated that the statement in issue was made to a Department employee other than Mr. Williams. *Id.* at 317-18. The Department asserted in response that it did not believe Mr. Williams was going to testify as Petitioner feared. *Id.* at 318. On that basis, the Court allowed Mr. Williams' testimony to proceed.

Immediately thereafter, Mr. Williams testified that Mr. Scurry represented to the Department that the barge would be able to navigate in and out safely if dolphin pilings were installed. *Id.* at 319. No other or further objection to this testimony was lodged at this time, nor did Petitioners move to strike the testimony at this time. *Id.*

Later, on cross-examination, Petitioners' counsel questioned Mr. Williams on several topics, including the alleged admission. The following exchange occurred:

> Q: Okay. Now, with that, it would lead me to believe that you made a determination prior to that, that the marina where it was originally placed, 20 feet closer, would have been an unreasonable

impediment. Is that correct? Or do you consider the 20 foot movement just part of the mediating between two parties?

A: We, we in addressing the concerns that Mr. Scurry raised, and the applicant's cooperation to move the structure to the northern extended property line, *along with the admission that Mr. Scurry said that the dolphin piles will help him navigate in and out safely*, I mean that helped us and aided in, in determining that it would be reasonable navigation.

Q: First, *tell me who, to your knowledge, said Wic Scurry agreed that those dolphin pilings would cure the problem*?

A: The project manager, Josh Hoke, and *I had a conversation when he got off the phone with Mr. Scurry on May 25th, 2021, I believe, and stated that he suggested the dolphin piles would have given the ability to move in and out safely, and that his lawyer would follow up with a letter.* And, and then Josh then coordinated that information with the applicant to get revised drawings.

(Tr. at P. 345-46) (emphasis added).

This exchange illustrates that: (1) Mr. Williams separately testified to Mr. Scurry's admission in response to questions asked not by the Department, but by *Petitioners' counsel*; (2) Petitioners neither objected to nor moved to strike this response to their question by Mr. Williams; and (3) Petitioners' counsel asked a follow up question which itself restated the testimony to which Petitioners' now object. The Court considers the alleged admission to have been into evidence without objection under these circumstances. While the receipt of Mr. Scurry's admission through Mr. Williams' direct testimony may have been improper, the introduction of the admission during Mr. Williams' cross examination was a separate and distinct event. The Court therefore perceives no error in receiving or in relying on Mr. Scurry's admission.

Even if the statement had been improperly admitted, however, striking the admission from the record would not result in a different outcome in this case. Other evidence was sufficient to tip the scales in the same direction, including, but not limited to:

- Capt. Daley, a barge employee, specifically testified that while he was concerned about the safety of boaters, "he was not worried about hitting the marina or anything like that."[1]
- Mr. O'Quinn opined that the marina as proposed would not impede the reasonable navigation of public water, or navigation by J&W's barge.

[1] This finding will be discussed in more length infra.

- From 1990 until 2016, J&W was able to navigate its barge in and out of Barge Creek even though the SFH Dock was in place. This dock was of the same general length as is the proposed marina and was also located 20 feet closer to J&W's route of travel than the proposed marina would be.

- Mr. Scurry submitted a proposed alternate design which would locate the marina in the same position as currently permitted but remove the finger piers on the western side of the marina.

- All the witnesses, including those qualified as experts, who were called by Petitioners to testify regarding safe navigation of the barge were interested in some manner.

The Court therefore denies Petitioners' motion to reconsider as it relates to Mr. Scurry's admission.

B. Evidentiary Support for Other Findings of Fact

Petitioners argue that the Court mistakenly misread or misunderstood certain testimony, which resulted in a number of findings of fact and conclusions of law being unsupported by a preponderance of the evidence. Respondents initially respond that to the extent that Petitioners challenge the Court's evaluation of the evidence submitted, there is no basis on which to alter the outcome of the case. According to Respondents, the Court is the finder of fact and has broad discretion to weigh the evidence.

The Court generally agrees. In a bench trial, the Court sits as the trier of fact and assesses the evidence itself. *Kawasaki Kisen Kaisha, Ltd. v. Plano Molding Co.*, 782 F.3d 353, 360 (7th Cir. 2015). It is the province of the trier of fact to resolve conflicts in the evidence, assess the credibility of witnesses, and determine the weight and probative value of the evidence. *See* 75A Am. Jur. 2d *Trial* § 672 (May 2023); 88 C.J.S. *Trial* § 401 (August 2023); *Small v. Pioneer Mach., Inc.*, 329 S.C. 448, 470, 494 S.E.2d 835, 846 (Ct. App. 1997) (where the expert's testimony is based upon facts sufficient to form the basis for an opinion, the trier of fact determines its probative value). As one commentator has explained:

> The probative sufficiency of the evidence in trials of civil cases before a jury is a question of fact exclusively for determination by the [trier of fact].
>
> The essence of a [trier of fact's] function includes a determination of the credence to be given evidence at trial. If there is any conflicting evidence of a probative nature in the record, a determination of the issue is for the [trier of fact]. It is the role of the [trier of fact], among

> other things, to determine the probative force to be given to testimony and what the evidence proved or did not prove. Once the threshold requirement that a witness have personal knowledge is met, it is for the [trier of fact] to weigh the reliability of the evidence.
>
> It is within the prerogative of the trier of fact to decide what evidence is most dependable. A [trier of fact] is not required to disregard testimony merely because the witness may be interested or biased.
>
> It is within the province of the trier of fact to place more probative value on the testimony of an interested witness than that of a disinterested one.
>
> Only the [trier of fact] may judge the value of the testimony of a witness or the meaning to be given to exhibits.

88 C.J.S. Trial § 401. To the extent then that Petitioners' motion is based on the fact that Petitioners view or weigh the evidence differently than did the Court, the Court sees no error of law and denies Petitioners' motion.

Because, in some cases, Petitioners argue that certain findings and conclusions of law lack *any* evidentiary support, the Court will address Petitioners' challenges individually.

1. 31st Conclusion of Law

The Court stated in its original opinion that Petitioners' concerns about safety issues arising from restaurant customers who may dine and drink at the Fish Camp restaurant if the marina were constructed were undermined by the fact that Petitioners themselves have operated a restaurant which serves alcohol without incident at the Freeport marina. Petitioners attempt to distinguish activities at the Freeport marina from the prospective operations on Broad Creek because, Petitioners argue, the barge's approach to the Freeport marina is completely different and easier than the barge's approach to Barge Creek.

While the Court acknowledges that the evidence indicates that the approach to Freeport marina is less complicated than the approach to Barge Creek, this distinction has no impact on the Court's finding. Petitioners have argued that allowing the construction of the marina to proceed creates a safety hazard because boaters may drink at the restaurant and then enter the waterway intoxicated, where they may encounter the barge. The Court's comparison to the Freeport marina was intended to address this argument. That the barge maneuver to enter Freeport marina is simple when compared to the maneuver needed to enter Barge Creek has nothing to do with the whether

the service of alcohol at a restaurant adjacent to the path of the barge creates a safety hazard. The barge has successfully navigated in an area with high boater traffic and potentially intoxicated boaters for years without incident. While the Court does not mean to suggest that the barge's history of operating at the Freeport marina wholly negates Petitioners' concern, the Court stands by its earlier finding that this history undermines Petitioners' argument.

2. Location of the former Simmons Dock

Petitioners argue that the Court has mistakenly considered the location of the former Simmons' dock as relevant to the issue of maneuvering the barge into Barge Creek. Petitioners acknowledge that J&W successfully navigated into and out of Barge Creek for years while the prior dock was in place and that the former gap between the dock and the pier into Barge Creek was less than 100 feet. They contend, however, that the proposed marina would be located in the turning arc of the barge, making it impossible to enter Barge Creek under certain conditions without striking the fingers of the marina on the Barge Creek side of the proposed pier.

Certainly, Petitioners offered testimony regarding its contention that the marina would interfere with the ability of J&W's barge captains to pilot the barge into Barge Creek, but Petitioners simply ignore other evidence which cuts in the other direction. Captain Daley testified on redirect that under certain conditions and conducting the same maneuver he usually uses, the barge might strike certain fingers of the proposed marina, but he also testified that he was not worried about the barge striking the marina; rather, his concern was boater safety.[2] Mr. O'Quinn, who was qualified as an expert, testified that the former dock created a *smaller* pinch point through which the barge could navigate than does the proposed marina. Mr. O'Quinn also testified that there were other types of maneuvers which the barge could make to safely enter the creek if the marina were constructed. Finally, Captains Daley and Lundy, on whom Petitioners rely in their motion to reconsider, testified about the barge's ability to navigate if the marina were constructed under the existing permit. They did not testify about the ability of the barge to enter Barge Creek if the marina were constructed according to the design ultimately adopted by the Court, which reduced the length of the fingers of the marina nearest to the area in which Petitioners suggest the turning maneuver would be made.[3]

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[2] This statement is discussed in more detail below.

[3] The Court also notes that if Petitioners are concerned that the barge may not be able enter Barge Creek "under certain conditions," then Petitioners may choose not to operate the barge under those conditions.

3. Captain Daley's Testimony in Finding of Fact 55

Petitioners argue that the Court misconstrued Captain Daley's remark that he was not concerned with striking the marina. According to Petitioners, Captain Daley was not referring to the proposed marina, but was instead discussing the existing Broad Creek Marina and its concrete pier. Petitioners' counsel did elicit testimony to this effect on redirect examination. (Tr. at pp. 92-93).

However, the Court must view this statement by Captain Daley on redirect in context. The portion of the transcript relevant to Captain Daley's statement is reprinted below:

> Q: All right. So when you're, you're going around a, a corner or coming into an area where things are unknown, you can use the horn and the light to warn people of your approach, correct?
>
> A: Yes, sir.
>
> Q: And those things are required by Coast Guard rules and regulations, correct?
>
> A: Yes, sir.
>
> Q: I believe in your deposition you said the horn was very loud, correct?
>
> A: It is.
>
> Q: You have any doubt whatsoever that *from your mooring at Barge Landing, a recreational boaters at this marina would hear that horn*?
>
> A: I believe they would.
>
> Q: And nothing stops you from using the horn when you're making your return either, correct?
>
> A: No.
>
> Q: Okay. You wanted -- one question about the photographs that Mr. Taylor entered in. On Petitioners Exhibit 1, is that you in the tower there at the very top? (Petitioner's Exhibit Number 1 was referenced.)
>
> A: Yes, sir.

Q: Okay. And that's pretty good vantage point, correct?

A: Yes.

Q: Is -- Petitioners Exhibit 5, is this a view from ---

THE COURT: Sorry, can -- could you show up -- I, I couldn't see clearly?

MR. TRAYNHAM: My apologies. It's very small, Your Honor, but Mr. Daley testified that that's him in the tower.

Q: And with Petitioner's Exhibit 5, I'll see if I can get it up some more, I don't know, that might make things easier. Is this a view from the tower?

A: Yes, sir.

Q: Okay. And just to be clear, is it your testimony that from this vantage point, you could not see traffic over the Broad Creek Marina *into the proposed marina?*

A: I'm sorry, one more time?

Q: *Is it your testimony that from this vantage point in this tower, where you can see over all of the cargo, you would not be able to see boaters coming and going from the proposed marina?*

A: It would be based on the tide, sir. If the tide was a little bit lower than normal I probably can't. Sometimes I can, sometimes I can't.

Q: Well, a tide raises all boats, correct?

A: Gotcha. And, and it does for me too. Especially if I have a full load on my deck, I'll sit a lot lower sometimes. Like I'm saying, if it's a eight foot tide, six foot tide, full load on my deck, six dump trucks or something like this it would kind of push me down a little bit lower sometimes.

Q: Understood. If Your Honor will indulge me just for a minute. Mr. Daley, do you happen to know what the height is from your view to the water, or from the tower to the water?

A: No, sir, I don't. And the question you asked earlier when you asked if, when I'm on top of the tower, I have no control over the

light or the horn, they're down in the second layer of the boats, and once I make it up top I don't have control over the light or the horn anymore. I've lost all of those.

Q: Okay. Is there a way you can modify the tower to give you control over the light or the horn from the top?

A: Probably. But as of right now I'd -- like I'm seeing right now as I'm working I don't have that.

Q: In your deposition, I believe you testified that your, your concern was really about human error. Is that -- do you recall making that statement?

A: Yes, sir, I do.

Q: So you're, you're concerned -- *I'm not trying to minimize your concern about the existence of the structure itself.* We can put that back up there. But your primary concern is really with the recreational boaters coming and going. Is that a fair statement?

A: Yeah. I'm, *I'm not worried about hitting the marina or anything like that. I'm more worried hitting boaters.*

Q: You're not worried about hitting the marina, worried about hitting boaters.

A: *Right.*

Q: Thank you Mr. Daley. No further questions.

THE COURT: Redirect, very briefly.

CAPTAIN DALEY - RE-DIRECT EXAMINATION BY MR. TAYLOR:

MR. TAYLOR: Turan, when you just said you're not concerned about hitting the marina, which marina are you talking about?

A: I'm sorry.

Q: Which marina were you just talking about when you just answered the question, you're not concerned about hitting the marina? Do you understand what I'm asking? Michael just asked you a question about were you concerned about hitting the marina and it sounded as if you said you were not and I'm trying to figure out what

marina. Are you talking about Broad Creek Marina, are you talking about the proposed Simmons Family extension?

A: Broad Creek Marina, sir.

(Tr. at p. 88-93) (emphasis added).

In the Court's view as the finder of fact, the totality of the discussion above establishes that Captain Daley was in fact referring to the proposed marina when he stated he was not concerned about hitting the marina but was instead concerned about hitting boaters. This portion of Captain Daley's testimony begins with concerns about whether boaters at the proposed marina could hear the barge's horn when it departs Barge Creek. Daley then discusses traveling *past* the Broad Creek Marina and Daley's ability or lack of ability to see boaters in the area of "the proposed marina." This reference to the "proposed marina" is the last use of the word marina before Daley testifies that he is not concerned about hitting the marina. Daley's statement is made immediately after counsel for Simmons distinguished between concerns related to the structure of the proposed marina and concerns regarding boater safety.

Furthermore, if the Court were to assume that Daley was in fact referring to the Broad Creek Marina, then the preceding testimony becomes unintelligible. If the Court were to construe Captain Daley's reference to "marina" as a reference to the Broad Creek Marina, then the Captain Daley would either: (1) be referring to structural dangers of hitting Broad Creek Marina and dangers of hitting boaters using Broad Creek Marina; or (2) be referring to structural dangers of hitting the Broad Creek Marina and boating safety issues related to the proposed marina.

Neither alternative is logical. No one in the case argued or suggested that there was any structural danger posed by the Broad Creek Marina. The barge has been operating for years without incident at the Broad Creek Marina. There would be no need for Captain Daley to be discussing structural dangers posed by Broad Creek Marina.

Similarly, no one in the case raised any safety concern about hitting boaters who dock at the Broad Creek Marina. The only safety issues discussed at trial involved risk to boaters who might dock at the proposed marina. Captain Daley would have no reason to be concerned about or testify regarding boating safety issues involving Broad Creek Marina.

Alternatively, it would be unusual for Captain Daley to be referring in the same sentence to structural dangers posed by the Broad Creek Marina and boating safety issues posed by the

proposed marina. It is more logical for Captain Daley to have referred to both types of dangers Petitioners associated with the proposed marina in a single sentence than read the statement as Petitioners now propose.

Of course, the Court acknowledges that this construction of Captain Daley's testimony conflicts with his later statement. Inconsistent statements by witnesses, however, are not unusual, and the trier of fact is called upon to determine which statement is more likely correct. In this role, the Court views Mr. Daley's statements as referring to the proposed marina.

4. Alleged Errors by SCDHEC Supporting the Permit

Petitioners contend that there are four matters on which the preponderance of the evidence proves that the Department erred in reaching its conclusion to issue the critical area permit, making the Court's affirmance of the issuance of the permit an error. Respondents initially counter that this argument rests upon a misunderstanding of the Court's role in the permitting dispute. They assert that the Court reviews decisions of the Department *de novo*.

The Court agrees with Respondents. It does not sit in an appellate capacity to affirm or reverse a decision of the Department. Rather, the Court is the finder of fact in contested case hearings related to DHEC certifications and permits. *S.C. Coastal Conservation League v. S.C. Dep't of Health & Env't Control*, 434 S.C. 1, 10, 862 S.E.2d 72, 77 (2021), *reh'g denied* (Sept. 1, 2021) (citing *Hill v. S.C. Dep't of Health & Envtl. Control*, 389 S.C. 1, 9, 698 S.E.2d 612, 616 (2010) ("The proceeding before the ALJ was a de novo hearing, which included the presentation of evidence and testimony"). Accordingly, whether the Department had enough evidence before it to justify its decision was not the question before the Court in this case.

In any event, the Court takes a different view of the evidence. For example:

- Petitioners insist that its witnesses' testimony regarding the width of Broad Creek and the space available for maneuvering the barge into Barge Creek is determinative, but both Mr. Williams and Mr. O'Quinn testified to the contrary;

- Petitioners argue that the Department should not have compared the gap between the permitted structure and the existing structure at the Broad Creek marina. They also argue that the Department should not have considered the fact that the marina as permitted was 20 feet further away from Barge Creek than was the original SFH dock. The flaws in these arguments have already been addressed at length in Section B(2) of this Order above; and

- Petitioners argue that Mr. Scurry's admission about being able to safely maneuver in and out of Barge Creek if dolphin moorings were added, which Petitioners refer

to as the Hoke hearsay statement, was improper and was a determinative factor in the Department's decision. The Court has previously addressed the reasons why the admission was not inadmissible hearsay at trial of this matter, but, more basically, the Department's process in evaluating a permit request is not a legal proceeding in which the Rules of Evidence apply. The Department was well within its authority to consider Mr. Scurry's statement, even if that statement would be inadmissible in a subsequent court proceeding.[4]

ORDER

IT IS THEREFORE ORDERED that the Department's motion for reconsideration is GRANTED and the Court's prior order is hereby amended as set forth herein.

IT IS FURTHER ORDERED that Petitioners' motion for reconsideration is DENIED.

IT IS FURTHER ORDERED that the case is REMANDED to the Department to issue a permit consistent with this ORDER.

AND IT IS SO ORDERED.

The Honorable Robert L. Reibold
Administrative Law Judge

September 11, 2023
Columbia, South Carolina

[4] Mr. Scurry's statement to Mr. Hoke does not constitute hearsay in any event. It is an admission of a party opponent, which, by rule, is not hearsay. Rule 801(d)(2), SCRE.

CERTIFICATE OF SERVICE

I, Van Whitehead, 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, in the Interagency Mail Service, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).

Van Whitehead

Van Whitehead
Judicial Law Clerk

September 11, 2023
Columbia, South Carolina