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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Carolyn C. Matthews, Administrative Law Judge

Docket No. 10-ALJ-07-0217-CC

DTG Holdings, LLC and Jasper Station Associates, LLC Respondents,

vs.

South Carolina Department of Health and Environmental Control Appellant,

RECORD ON APPEAL

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ten?

A: The number of NOIs, somewhere between zero and ten.

Q: What claims were you worried about when you suggested that y'all execute a waiver for you to testify today?

A: What claims was I worried about?

Q: Yeah, you -- I think it's Exhibit 13. In consideration of consulting services you rendered at the August 31, September 1, 2010 legal proceedings, Jasper Station and related entities agree to make no claim and hereby waive to the fullest extent permitted by law any claim or cause of action of any nature against Thomas & Hutton. What claims were you worried about?

A: Well, I don't know if specifically there was a claim I was worried about, but there was a meeting where it wasn't clear to me based on the communication that I was hearing as to whose team Thomas & Hutton was on at that point.

Q: Whose team are you on?

A: We're -- well, right now, I'm representing myself and Thomas & Hutton as a company.

Q: Okay. Are you on anybody else's team?
A: I mean, I don't know what you mean in reference to team. What I was referring to --
Q: Well, I was just referring to your testimony.
A: Well, what I was referring to was do I need to have representation. Does Thomas & Hutton need to have representation or are we acting under Mary's guide with the attorney for both DTG and Jasper Station.
Q: Okay. Do you think Thomas & Hutton might have some liability if the permit is terminated?
A: At this time, I don't have any reason to believe that. They made clear that there wouldn't be any liability.
Q: You had enough concern to propose that y'all execute a waiver, right?
A: At the time -- at the time we drafted the waiver, there was concern based on communication that made it unclear, but since then it has been cleared up.
Q: Okay. You said that -- I think you said Malphrus Construction did the actual work filling the wetlands on site?
A: They were hired by Jasper Station to my knowledge, that's correct.

Q: And they were the ones that hired you to get this permit coverage; is that right? Malphrus Construction hired Thomas & Hutton?
A: Well, the contract was between Malphrus Construction and Thomas & Hutton, but the person who was going to be running Red Oaks Phase III was DTG. A lot of the times, that does change, but the contract at the time was with Malphrus Construction because Gregg was signing it personally. He wasn't having all three members of DTG sign it, so.
Q: Are you aware if Malphrus Construction, the owners of Malphrus Construction are the same three people that own DTG Holdings?
A: Yeah.
Q: They are?
A: Well, I mean -- I don't know --
Q: It's the Malphrus brothers, right?
A: Well, Dale and Todd are the brothers. I'm sorry, Todd and Gregg are the brothers and Dale is their father. I don't know who all owns Malphrus Construction, but I know Gregg is a part owner of Malphrus Construction.
Q: Okay. And they're the ones that did the work?
A: They do a lot of work in Jasper County.

Q: I'm sorry, they're the ones that filled the wetland?
A: They're the ones who preformed the land disturbing activities for Jasper Station, yes.
Q: Okay. And -- but they didn't disclose that on the DTG NOI?
A: I don't know where that's relevant on the DTG NOI.
Q: Well, they didn't disclose it. They knew there was a permit application for the site?
A: I'm not here to speak for Gregg Malphrus.
Q: Okay. Well, all right. We'll move on. Petitioner's Exhibit Number, I think it was 9, it's a two-page document. This is the plat that Ms. Shahid was looking at with you. And I believe you said it shows the DTG parcel, which is bolded?
A: Yeah.
Q: Next to the Jasper Station parcel?
A: Yeah.
Q: And this dark shaded area is wetland?
A: Yeah, that was, I believe the, and I don't know, I can't read it, Davis, but that was the wetland that was being filled as part of Phase I, the gray hatch.

Q: And that -- this is where the wetland fill took place, is it not?
A: Within the DTG boundaries?
Q: Yes.
A: Yeah.
Q: Okay. And this document was prepared when?
A: Honestly, I have no idea.
Q: Well, let's see if we can look at it.
A: Okay.
Q: I can't see. Looks like, you attached this to an email?
A: Could you pull down the --
Q: It says --
A: There you go. Okay. Thanks.
Q: It says, Shannon, the plan sheet with the area cleared is attached. Parcel is an 18 acre piece Malphrus cleared.
A: That was Gabe Smith who attached that.
Q: Okay. And that's attaching this document here, right?
A: That's the way it appears, correct.
Q: Okay. This is Petitioner's additional permit. Thomas & Hutton employs Gabe Smith? As a matter of fact, his signature is on this?
A: Yeah.

Q: Thomas & Hutton is the one that did the NOI for DTG? This document was in Thomas & Hutton's possession before the NOI was submitted to the Department, right?

A: I think the date on the email was January, so yeah, I wasn't looking at that, I'm sorry.

Q: Well --

A: Okay. Yeah.

Q: The date on the email is January 6th, 2009?

A: Yeah. That was, I think, following the inspection.

Q: And that's before y'all got the Corps, the new Corps delineation, right? You got the new Corps delineation on -- bear with me. Do you have 21 in front of you?

A: I do, yeah.

MR. WHITFIELD-CARGILE: Judge, do you have these exhibits?

THE COURT: I do.

MR. WHITFIELD-CARGILE: Okay. I wasn't sure if you wanted me to do the paper chase on the screen.

THE COURT: This is fine. I've got it right here.

MS. SHAHID: Is it petitioners or --

MR. WHITFIELD-CARGILE: Department Number 21.

Q: Department Exhibit Number 21 is the email from

Asher attaching the no wetland letter for Jasper Station, right?

A: Yeah.

Q: And that's dated -- his email to you is dated January 27th, 2009?

A: Yeah.

Q: And Exhibit 9, which shows the wetland in relationship between DTG and Jasper Station, y'all had in your possession at Thomas & Hutton on January 6th, 2009?

A: Okay.

Q: You agree to that?

A: Sure, yeah.

Q: And that was before you had the no wetland letter from the Corps?

A: Yeah.

Q: And that was before you submitted the NOI for DTG to the Department?

A: That we had this document at Thomas & Hutton, yeah.

Q: And that document is not included in Petitioner's Exhibit 6, which is what you submitted with the NOI; is that right?

A: That specific document, no, I don't believe it is.

Q: Petitioner's Exhibit 9 is not included on Petitioner's Exhibit Number 6?
A: Okay.
Q: You didn't include that with your NOI submittal, did you?
A: I don't believe so.
Q: Okay. And the packet is right here? Petitioner's Exhibit 6 is right there?
A: Yeah.
Q: That Petitioner's Number 9 is not in Exhibit 6, is it?
A: I would agree with that.
Q: Okay. You said that y'all were surprised when you got the notice of termination of the DTG permit because y'all thought that we had approved the filling of the wetlands when we approved the DTG permit; is that right?
A: When did I say I was surprised?
Q: I believe Ms. Shahid was asking you questions on cross-examination and she asked if y'all were surprised and if y'all believed that DHEC approved the wetland fill when we approved the DTG permit.
A: I don't -- you'd have to read that -- I guess I don't remember that specific --

MS. SHAHID: Your Honor, if I could clarify. I know I made those statements in opening statement. I don't remember attributing that belief to Thomas & Hutton in any question to the witness. I certainly made that statement in opening statements as it relates to my client, but I don't remember attributing that belief to Thomas & Hutton, or that emotion.

THE COURT: Well, if the witness doesn't remember that, then he doesn't remember that. That's your testimony, right Mr. Smith?

Q: Let me just ask you this. The NOI that you submitted to the Department did not seek approval for the filling of wetlands, did it?

A: No.

Q: Okay. So there's no way the Department could have approved the filling of wetlands in granting DTG's NOI because we didn't ask for it?

A: It was not asking for wetland fill.

Q: Okay. Do you have Exhibit 28 in front of you, DHEC Exhibit 28?

A: Okay.

Q: If you'll just publish the contents of that email for me beginning with -- well, you don't

need to read the part about the --
A: I don't remember that.
Q: Begin with Bob Glover.
A: Okay. Bob Glover called and they got their no wet letter from the Army Corps of Engineers. He wants to submit to OCRM as soon as possible. I talked with Gregg and he is fine submitting for the permit, but we need to know amount of fill pretty quickly so we can discuss with Bob. Call me Monday morning.
Q: How much more fill was there needed?
A: I honestly don't remember. That's referring to, I think, the vertical amount of fill, not necessarily a horizontal limit of fill. Does that make sense?
Q: Yeah, I'm just wondering how much more fill was needed. Do you know? If you remember.
A: I honestly don't remember.
Q: Okay.
A: They were trying to determine prices.
Q: Ms. Shahid had you read a portion of Petitioner's Exhibit 22, which was the letter. Do you have a copy in front of you?
A: I'm sorry, what am I looking at?
Q: Petitioner's Exhibit 22. And this was the

letter -- here.

A: Okay.

(Off the Record)

Q: Petitioner's Exhibit Number 22, Mary had you read from this regarding Thomas & Hutton's explanation for why the property ownership information was wrong on the NOI. Do you remember that?

A: Yes, sir.

Q: And this letter, Petitioner's Exhibit 22, wasn't -- isn't all your words, is it?

A: It's Mitchell's. Mitchell signed the letter, so it was a combination of myself and Mitchell.

Q: But Thomas & Hutton didn't pen all of that letter, did they?

A: What do you mean pen?

Q: Put the words on the page.

A: Oh, pen. I'm sorry. Can you be more specific?

Q: Well, there was someone else involved who wrote that letter?

A: I believe Mary had some advice on the letter.

Q: Exhibit 39. I'll put it on the screen for you. She had to mean it up for you, right?

A: That's what it says.

Q: And Exhibit 17, is it 17? Exhibit 22 in front

of you; do you have that?
A: I do.
Q: This is the first draft of the letter that you wrote; is that right?
A: I don't know what draft this is. I mean, again, it had multiple people commenting on it over time, as a lot of letters do.
Q: Is this the draft that you wrote? Do you remember?
A: I don't remember, no.
Q: Okay. Read the paragraph on the property owner information.
A: The application requests information pertaining to the owner operator for the site. The company listed on the NOI was under contract to purchase the property and was going to be the operator responsible for construction activities at the site. If the property sale closes, DTG will be the owner and responsible for the day to day control. It was not our intention to be misleading. The operator would have become the owner by the time the disturbing activities would have commenced.
Q: And that draft doesn't say anything about the practice of Thomas & Hutton, does it?

A: I'm sorry?
Q: That draft doesn't say anything about a practice of Thomas & Hutton in filling out NOI's, does it?
A: No.
Q: And you testified in your deposition and earlier today and read into the record that no one at Thomas & Hutton trained you to put the project owner down as the property owner.
A: I believe we said we didn't have specific training in regard to that item. Obviously I worked for a supervisor who would guide me when I was younger and then I would become the person who guides the next individual.
Q: Your testimony was that you didn't seek guidance or training from anybody at Thomas & Hutton in how to fill out that section, wasn't it? You can just read through it if you want.
A: Again, I guess to clarify, we don't have a specific training class on how to fill out an NOI, but I'm not --
Q: And you said you weren't familiar with any body else's practice at Thomas & Hutton?
A: Well, at the time of the deposition, you know, I didn't -- I couldn't specifically speak to,

you know, what somebody else was doing on every NOI application, so I guess that's the best way I can answer that. But obviously over time, you know, there's been discussions of all different types of applications at Thomas & Hutton.

Q: Do you have your deposition in front of you?

A: Sure.

Q: Turn to page 64. Please read beginning at 64, line 7 through 66 line 22. "Question: Your general practice, and correct me if I'm wrong, is to list on Section 2(b) where it asks for property owner, you list the project owner and operator because they will eventually acquire title to the property; is that right?"

A: "In this case I filled this out because DTG was going to own the property in my opinion."

Q: "Okay. Was that an accurate description of your general practice?"

A: "I can only speak for myself, so I don't even know that the old NOI had two different sections."

Q: "Well, since 2007 I guess you said you had only done ten NOI's."

A: "I said somewhere between zero and ten."

Q: "Do you know what that -- what number it is?"
A: "No."
Q: "Is it closer to zero or ten?"
A: "I can't say for sure, but I would say my general practice would be to fill out the application in this fashion."
Q: "Who instructed you to follow that practice? What was your training in that regard?"
A: "I don't know that I had official training on how to, blank."
Q: "Did anyone at Thomas & Hutton tell you that is how you fill out the form?"
A: "I don't recall that there was a specific directive. "
Q: "Have you consulted with any of your colleagues at Thomas & Hutton as to how to fill out that section of the form?"
A: "At that time in my career?"
Q: That's actually at any time in my career.
A: Oh, I'm sorry. "At any time in my career?"
Q: "Since the 2007 form was amended?"
A: "I honestly don't know. I don't think so."
Q: "What about any time in your career?"
A: "Again, I don't remember the old NOI have two different, it may have, but at some point, at

some point either I went by the instructions or I would have had guidance on how to fill out the form. But that is going back a long time and I don't remember the first time I filled out the NOI and obviously when the form blank is a standard form. So you --"

Q: "Have you consulted with any other engineers in the field and asked them how they fill out that section of the form?"

A: "No."

Q: "So are you speaking from your general practice, is that fair?"

A: "Yes."

Q: "Nothing more?"

A: "I mean, I don't -- sitting here in front of you today I don't know what and I guess specifically within Thomas & Hutton, I don't know what -- I don't know if I can say what folks or other teams do or don't do."

Q: Okay. And that, your deposition was last Monday, wasn't it?

A: Yeah.

Q: Last Tuesday?

A: Yeah.

Q: And that was after Petitioner's Exhibit 22 was

sent to DHEC in August 2009, wasn't it?

A: Sure. That exhibit was written by Mitchell Bohannon.

Q: You said it was written by him or signed by him?

A: Well, it was from Mitchell Bohanan.

Q: And you prepared an affidavit in this matter; is that right?

A: Yeah.

Q: And you disagree with a lot of the language that Mary asked you to opine to, did you not?

A: I felt like the most accurate way to represent my opinion was with the letter that Mitchell signed. I can't see --

Q: Can you see that?

A: Yes.

Q: This is DHEC Exhibit 38. Publish the first paragraph for me.

A: "You probably are not going to be happy with the way I mark this up, however, considering I only have one day to read and review the affidavit you're asking me to sign, I would request you use the language or at least the intent --" I'm sorry -- or yeah, "or at least the intent of the letter we wrote to OCRM.

Please remember I am not dealing with this case on a day to day basis and I don't want to feel rushed when signing something which somebody else prepared."

Q: Okay. And let's look at some of the stuff you deleted. The first thing you deleted is, I was involved and aware of the Department's review of the Jasper Station NOI. I'm sorry, you can't -- I'm reading on the screen and it's not -- the first thing you deleted, is since becoming a licensed -- since becoming licensed as a PE, that's Professional Engineer; is that right?

A: Yeah.

Q: I have completed how many land disturbance applications, NOI. You deleted that, right?

A: I did.

Q: Okay. And you deleted the third item you deleted, prior to the submittal of the DTG NOI, I had several discussions with Mary Shahid regarding the legal dispute between Jasper Station and DHEC as to whether Jasper Station had obtained a permit for operation of law. We discussed the appropriate manner to complete the NOI given the question of whether the

permit had been deemed to be the issue. You deleted that.

A: Can I expand on why I deleted some of this stuff? Just to clarify?

Q: Well, you deleted that, right?

A: Yes.

Q: Okay.

A: May I expand on that?

Q: I think that's proper for cross-examination by Ms. Shahid.

THE COURT: Well, I think if you want to complete your answer by telling him why you deleted it, I think it only makes sense. Go ahead.

A: Again, this thing was needing to be turned around really quickly and it was a lot of information and I just felt like as opposed to spending a bunch of time trying to wordsmith, especially with an affidavit, I would rather be comfortable with every single word on that affidavit. ANd I had a lot familiarity with the letter signed by Mitchell, and that's what I felt to be appropriate. So, you know, a lot of this stuff is deleted because I didn't write it, and therefore, I don't even remember how many hours, but it was within the same day. I

just didn't feel comfortable.

Q: Okay. Paragraph -- I guess on the sixth page of Exhibit Number 39, 38 rather, you deleted a paragraph that read Section 2(b) of the NOI requests the applicant list the project owner operator, company or person, I indicated on the NOI the entity as DTG Holdings. At the beginning of the application form DHEC's NOI states the submission of the NOI constitutes notice that the entity identified in Section 1 intends to be authorized under SCR100000. The entity you intended to be authorized was DTG Holdings, not Jasper Station because DTG was under contract to purchase the property when the NOI was submitted. The appropriate information to list for owner of the property is the owner at the time the project is commenced or when the land disturbance is commenced. Since the project described in the NOI would only be implemented upon transfer of title to the property to DTG Holdings, it was appropriate to show DTG Holdings as owner for purposes of completing Section 2(b) of the NOI. DTG Holdings did not intend to deceive DHEC or to be unfair in completing Section 2(b), but

rather intended to provide the most relevant information of ownership should the project described in the NOI be implemented. You deleted that paragraph, correct?

A: I deleted a lot of stuff in that.

Q: Okay. Do you usually consult with -- well, you said that Ms. Shahid did not represent Thomas & Hutton and at the time you were preparing the NOI, she did not represent DTG; is that right?

A: I don't think so.

Q: She was counsel for the seller, right?

A: That's the way I understood it, yeah.

Q: So do you often seek guidance from an attorney who neither represents you nor your client in the preparation of NOIs?

A: That's not typical.

Q: Okay. Looking at Exhibit, I believe it's, 17. Do you have that in front of you?

A: Yeah.

Q: This is what we determined earlier was one of the earlier drafts of the NOI; is that right?

A: Yeah.

Q: You can tell that because it doesn't contain -- have information filled out in Section 4(b)?

A: It also says Resource Development Group, which

is similar to that other NOI you showed me.
Q: Okay. And this is the form that, I think you said you just click on the website and put these out?
A: Yeah, we have a little hyperlink to the NOI.
Q: And this form has instructions attached to it, does it not?
A: It does.
Q: This is the one that you have in your file?
A: Yeah.
Q: So the instructions were right there four pages back on how to fill out the form, right?
A: Yes.
Q: Did you read the instructions when you filled out this NOI?
A: Again, I don't specifically think I read the instructions when I filled out this NOI.
Q: What are the instructions for Section 2(b) on page 6?
A: Do you want me to reread it verbatim?
Q: Please.
A: List the complete legal name of the current property owners of the site. Enter the daytime phone number for the property owner. Also enter the complete mailing address for the

property owner. NPDES cover will be issued the property owner/ operator, not the property owner unless same entity. If there are --

Q: Okay. That second sentence you just read is contrary to your rationale in filling out the NOI, is it not?

A: How so?

Q: Well, it says specifically that the coverage is entered, issued to the property owner, or I'm sorry, to the project owner/operator, not the property owner unless the same entity, right?

A: That's what it says, yeah.

Q: And they weren't the same entity, were they?

A: Again, the reason I put them in as the property owner is because when the permit was going to be issued or approved, they were going to purchase the property. I'm not trying to --

Q: At the time it was submitted --

A: I've already said I didn't put Jasper Station as the owner of the property.

Q: And they were the property owner?

A: And they were the owner of the property at the time that the application was submitted.

Q: Section 3(i) on page 7, can you publish the instructions for that.

A: Sure. See Section 122.21(f) of South Carolina Regulation 61-9, I won't read that unless you want me to, for a list of permits, approvals and programs that should be considered. If the provided information is inaccurate, NPDES coverage may be invalid.

Q: And that part you didn't read is a link to the website for the regulation, is it not?

A: Yeah.

Q: Okay. Did you consult with the list on 61-9 and see what should be listed?

A: No. But I just -- not on this specific application, but I have done that before and I understand what's on there.

Q: Is NPDES permits on there?

A: NPDES program permits are on there.

Q: Do you think when an NOI is signed you are only certifying to certain things on the NOI?

A: I believe when I signd an NOI, to the best of my knowledge and information, that it's filled out accurately.

Q: That all the information on the form is accurate and complete; that's what you're required to certify to, isn't it?

A: Well, I don't know what it specifically says,

but --

Q: But you're not just certifying to some stuff and not other stuff, are you?

A: I don't know that I'm certifying specifically to the NOI. I don't know that it says that on there. But I can tell you that when I submit the NOI I want it to be as correct as possible. And in this case, I was absolutely not hiding anything.

Q: Are you aware if there are rules of professional conduct that govern licensed engineers?

A: I'm aware that there are rules of professional conduct, yeah.

Q: Have you ever looked at them?

A: It's been a long time.

Q: Have you ever had any issues with -- is there a board that governs engineers?

A: Yeah.

Q: What is it?

A: State Board.

Q: What's it called?

A: It's called the -- Professional Engineering Board of South Carolina.

MS. SHAHID: Your Honor, at this point if Mr. Smith

were testifying as an expert, this might be a relevant line of inquiry, but he hasn't testified as an expert. He's a fact witness only, and I believe this is an irrelevant and an inappropriate line of inquiry.

MR. WHITFIELD-CARGILE: I think it goes straight to credibility, Your Honor. He's an engineer. He preformed engineering services. He's the one who filled out this application.

THE COURT: You may ask him if he's ever had any action brought against or ever been disciplined by the State Board, and that is the extent of it.

Q: Have you ever had any action or discipline brought against you by the State Board?

A: No, sir.

MR. WHITFIELD-CARGILE: I'd like to proffer or I'd like to have him publish the standard for public statements for engineers, Your Honor. I don't want to go --

THE COURT: Well, since he's not been disciplined by that, I don't think we really need to go into -- I mean, I'll take judicial notice of the fact that Title 40 of the South Carolina Code governs, I believe it's 49 separate boards and

commissions. Each one of those is governed by what they call the engine which is everything in Title 1, but it's also governed by their separate statutes and regulations promulgated thereunder and boards have the right to discipline for ethical violations. They also mostly have criminal and civil penalties which can be imposed for civil or criminal violations, and if he hasn't had any, then I don't see any need to go into the specifics of what they are required to do.

MR. WHITFIELD-CARGILE: Well, I'd like --

A: And my exam doesn't cover anything to do with the Board. It's all technical.

MR. WHITFIELD-CARGILE: Okay. Well, I would ask that the Court take judicial notice of the standards in 49-303 regarding public statements.

THE COURT: And those are for professional engineers?

MR. WHITFIELD-CARGILE: Yes.

THE COURT: Sure, absolutely. I will take judicial notice of that.

MR. WHITFIELD-CARGILE: I don't have any further questions, Your Honor.

MR. SMITH - RECROSS-EXAMINATION BY MS. SHAHID:

Q: I'm going to show you Exhibit 9, and you were asked a question, was this email and/or this map provided to DHEC upon submittal of the NOI, and you answered no. I would ask you, who was the email and the map sent to on January 6, 2009?

A: It was sent to Shannon.

Q: Okay. Shannon Hicks?

A: (Witness indicates.)

Q: Where is Shannon Hicks?

A: Shannon Hicks is employed at DHEC.

Q: Okay. You shrugged when I said Shannon Hicks.

A: Well, it just says Shannon. Well, the top says Shannon. I just didn't want to, you know.

Q: Okay. And --

A: I'm turning into a lawyer over here.

Q: And Shannon Hicks is employed at DHEC?

A: Yes.

Q: Do you understand Shannon Hicks to be somebody that does stormwater permitting at DHEC?

A: I believe she -- she does stormwater permitting, yes.

Q: Okay. Is she somebody that you've interacted with on permits --

A: Yes.
Q: -- and other issues? Okay. And Exhibit 39, Exhibit 39 is the email that I sent to you relative to what ultimately became Petitioner's Exhibit 22, the letter that Mitchell Bohannon sent. And do you need me to --
A: Oh, I can see it.
Q: Okay. If you could read for me the sentence that begins with ultimately.
A: "Ultimately it is your letter and go with what you feel comfortable with, but there is no rush" -- I'm not sure if that's the end of it -- "to respond."
Q: Did you take my advice to heart and go with what you felt comfortable with?
A: I always do.
Q: Okay.
A: I always go with what I feel comfortable with. I don't always take your advice.
Q: Okay. And finally, with regard to the affidavit. You were examined about an email, I guess one that you sent to me and to Leslie when we were making an eleventh hour request from you for an affidavit to respond to a motion. And that email is marked as Exhibit

38.

A: Okay.

Q: Do you remember my reply to that email? I've seen it, so I remember it. I just didn't know if you remembered it.

A: I think you said something along the lines of I'm making it way too complicated. We'll go with whatever you feel comfortable with.

Q: Yeah. Didn't I say I don't know why I chose to make it hard. You're right, let's use the letter.

A: I don't remember specifically the email but that is the tone of what I remember.

Q: Okay. And, in fact, let me mark this. And I think we're Petitioner's 33 or 34.

(Petitioner's Exhibit Number 33 was marked for identification purposes.)

Q: And is 33 the affidavit that ultimately you signed?

A: It is.

Q: And that affidavit incorporates the letter that you requested?

A: It does.

Q: That the affidavit be framed around the letter?

A: Yeah.

Q: Okay. That's all I've got on recross.

THE COURT: Thank you very much. Mr. Smith, you may be excused.

A: I appreciate everybody's time.

THE COURT: Yours also. Whenever you're ready, Mr. Whitfield-Cargile, you may call your next witness.

MR. WHITFIELD-CARGILE: The Department calls Amanda Nodolf, Your Honor.

MS. SHAHID: Your Honor, can I ask for a favor, just a little side conference.

THE COURT: Certainly.

MS. SHAHID: I have my two witnesses here who are here exclusively to report on what the public records revealed with regard to the NOI search. It's Mr. Parella and Mr. Alexander. I estimate their testimony to be about five minutes each because there's not a whole lot to report on, and I wondered if we could take them out of order, if Mr. Whitfield-Cargile would object. He's got a room full of people here that I think are here because they want to watch the proceeding. These two don't necessarily want to watch the proceeding. So if the Court could accommodate me and if DHEC doesn't have an

objection, I would like to do that.

THE COURT: I understand. Does that work for you?

MR. WHITFIELD-CARGILE: Well, this is where I am, Your Honor. I object to their testimony, but we can address that. If we do, then I don't have a problem with going out of order.

THE COURT: Okay.

MR. WHITFIELD-CARGILE: I'm not waiving my objection to their testimony.

THE COURT: Okay. And I know that objection had been raised yesterday, and if there's anything else to be said about it, I know you think that they're not valid witnesses or whatever, right, and that their summaries would not be valid; is that correct?

MR. WHITFIELD-CARGILE: And I don't know who they are. I don't have any information on them. I believe one of them, at least one of them is employed at McNair Law Firm. I think that disqualifies them to testify. And I don't think any foundation is laid, has been laid to make -- I know you said yesterday you think that it's relevant and you'd like to hear that kind of testimony, but the person that filled out the NOI testified he hasn't consulted with

anybody, he doesn't know what other people do. He was just doing it because that's what he wanted to do, well, not because that's what he wanted to do, that's what he did on the first zero to ten NOIs he filled out. So to be relevant and to be a defense I think, A, I don't think it's a valid defense, but given the regulations require the application be filled out on forms as may be prescribed by the Department, they should be signed pursuant to the regulations in 61-122.22, shall contain all pertinent matters as the Department may require. But even contrary to testimony by Mr. Smith, who said that Regulation 122.21 doesn't require ownership information, it does. It's 121. -- I'm sorry, section 122.21(f)(4) which requires on all applications ownership status. I don't think it's a valid defense, but all that aside, even if it could be, the groundwork hasn't been linked up to lay a foundation for it to make it relevant in this case because the person who filled out the NOI testified that he hadn't consulted anybody. He doesn't know what other people's facts are. So I think it's completely irrelevant and I'd also move to

disqualify Mary and Leslie if the witnesses are with McNair Law Firm.

THE COURT: All right. Ms. Shahid, can I hear from you on that?

MS. SHAHID: Yes, Your Honor. I think the genesis of this goes back to Mr. Whitfield-Cargile, when we were struggling to get these documents wanting to make sure that he had somebody that he could cross-examine. And at that point I indicated that somebody could be me or could be somebody in my firm or I could be able to find a title abstractor at the firm and you indicated in our conversation that the threshold, that doesn't necessarily disqualify me, that that's something you could consider. Certainly I'm not going to put the witnesses on the stand if it's going to result in disqualification because I'm going to stay here and finish this hearing. So I have two witnesses, both this is what they do for a living, they checked the public records for me and they observed information on the public records, and they prepared a report as to their observations. One is a title abstractor in our Charleston office, Jay Alexander. Keith

Parrella is a real estate lawyer for 12 years in our Hilton Head office. And I checked the rule, it's the rules of attorney conflict, the rules of ethics and the rule about an attorney appearing as witness, and if it's not a contested matter, and I don't think ownership on these NOIs is a matter of contest. If it's not a contested matter, it doesn't result in disqualification unless it makes the Court feel uncomfortable. Clearly if it makes the Court feel like there's a contest or conflict or confusing to the Court, you've got the discretion to disqual -- to say me or them. But I felt like it passed the test under the rules of ethics. I heeded what you said yesterday, which is you didn't have a problem with anybody coming into court with what the public records saw, and I just happened to be, because of the timing of this discovery, all I've got to use are people that I work with in my firm. So that's where I'm left.

THE COURT: Well, as I indicated yesterday from the motions ruling, it appears to me that what you're seeking to introduce is merely a compilation of whatever records you found that

are public records and extracted from public records, and you have to lay a foundation in some fashion. And as long as you have somebody who will testify under oath that they got these from the public records and if they are some sorts of certified copies or whatever of the public records that they got them from, then I have, you know, I think they should testify. And I don't know that there's any problem with them being employees of your firm. And again, I'm the fact finder in this case. We don't have a jury that's going to get all confused about what their role is in this thing. I will give them such weigh as I deem they merit. And the only thing as far as relevance, I do think they're relevant, Mr. Whitfield-Cargile, and I think they're relevant because one of the defenses all along has been that not only does it not require the listing of the property owner in every instance instead of the operator or project owner, but it's been the practice of some other people not to list a property owner, unless maybe the permits are obtained. So they may not be able to show that. I mean, I assume their records will show something relevant to

their inquiries. So on that respect, I'll hold that they are relevant to make a fact in dispute more or less probable than it would be without the evidence. I don't think it's outcome determinative by any means.

MR. WHITFIELD-CARGILE: Well, Your Honor, I agree that it's not outcome determinative, and I don't want to argue with you, but I'd like to make three --

THE COURT: Sure.

MR. WHITFIELD-CARGILE: -- short points.

THE COURT: Sure.

MR. WHITFIELD-CARGILE: Once a practice of -- there's no regulatory requirement that says the Department conducts title abstracts. To the contrary, it says people must submit true and accurate information --

THE COURT: Right.

MR. WHITFIELD-CARGILE: -- and it has to be signed to. And the regulations require ownership status to be listed. The regulations require people to use forms by DHEC. And I don't think that the practice of someone in the regulated community can change what the regulations require, especially if there's no knowledge by

the Department that people are misrepresenting information. The Department is not at all required to do title abstracts.

THE COURT: No, certainly not.

MR. WHITFIELD-CARGILE: I agree that it's not outcome dispositive and I think I understand your ruling, but I want to make sure my objections and arguments are preserved.

THE COURT: Sure. And I understand your position, too. Okay. We can go ahead and take those two witnesses then out of order.

MS. SHAHID: Yes, ma'am. And what I'll do to save time is we'll be referring to some documents that I'll offer to admit at the end.

THE COURT: Okay.

MS. SHAHID: As a group just to save some time and get through it. And I've got copies for you.

MR. WHITFIELD-CARGILE: So that this goes quickly, can I just note a continuing objection to all of their testimony, if it's within those grounds?

THE COURT: Certainly.

MR. WHITFIELD-CARGILE: If it's new ground, then obviously I'll have to raise it. I don't want to object to every question she asks.

THE COURT: Certainly. To each one of those --

MR. WHITFIELD-CARGILE: I know you don't want me to either.

THE COURT: No. I'll defend to the death your right to object to whatever you want to when you want to. But we will note your continuing objection to this line of questioning. But go ahead and call them.

MS. SHAHID: Your Honor, Petitioners call Jay Alexander.

THE COURT: Mr. Alexander, if you'd please come over to our witness chair and we'll ask our court reporter to administer the oath or affirmation to you.

MR. WHITFIELD-CARGILE: I do have to object to Jay Alexander testifying. I had no notice that Jay Alexander was going to testify. The only witness that was noticed, even as late as yesterday, to me was Keith Parrella, I think. Is that right, Keith --

MR. PARRELLA: Parrella.

MR. WHITFIELD-CARGILE: Parrella. And he wasn't a title abstractor and he hadn't done title abstracts to my understanding. This is a new witness.

THE COURT: Ms. Shahid?

MS. SHAHID: I think I've had conversations with Davis about my inability to get an abstractor and using in-house people. I even had a conversation yesterday. We actually didn't get the Charleston County documents until either this week, early this week, or late last week. I think it was early this week. So I haven't had -- not this week, I'm sorry.

MR. ALEXANDER: Last week.

MS. SHAHID: Last week. Yeah, it was last week that we got them. I don't know that he's prejudiced by lack of notice. He's testifying he knew we had somebody looking at the documents. I feel like I've said it was, we were doing it in-house. I know I said that yesterday. Keith Parrella, every time I filed a report, Keith Parrella actually did a report with the Beaufort County documents so his name has been disclosed for at least two weeks. I don't think Davis has heard me say Jay Alexander, but I know I have said I've got my in-house abstractor working on it.

THE COURT: And Mr. Alexander is a paralegal with the firm --

MS. SHAHID: Yes.

THE COURT: -- and he's going to testify regarding the Charleston compilation?

MS. SHAHID: Charleston and Berkeley.

THE COURT: And he did it?

MS. SHAHID: And he did it.

THE COURT: Fine. I'll let him testify. Go ahead.

JAMES C. ALEXANDER, JR., being duly sworn, testifies as follows:

MR. ALEXANDER - DIRECT EXAMINATION BY MS. SHAHID:

Q: State your full name, please.

A: James Carl Alexander, Jr.

Q: And where are you employed?

A: McNair Law Firm.

Q: And how long have you been there?

A: Seven and a half years.

Q: Which office?

A: Charleston.

Q: What do you do?

A: I do title research.

Q: Okay. Do you work for a real estate, group of real estate attorneys?

A: I work primarily for Sid Boone and Rhonda Tapley.

Q: Okay. And is it -- are your responsibilities exclusively title work?

A: Yes.
Q: Okay. And are you one that regularly checks public records to determine ownership --
A: I do.
Q: -- property? Okay. Is that part of your regular responsibilities?
A: It is.
Q: And do you utilize available public domains and do a desktop search to check ownership?
A: Yes, I do. I check via desktop and also down at the public office.
Q: Okay. Is that your normal practice to use both desktop and to use the RMC office?
A: Yes.
Q: Okay. And were you provided documents, NOIs from the counties that were produced to us by DHEC from the counties of Berkeley, Charleston, and Dorchester?
A: Yes, I was.
Q: Were you able to do anything with the Dorchester County NOIs?
A: I was not.
Q: Okay. And why is that?
A: I only had a few and they were very vague in terms of what the property actually was. So I

had trouble pinpointing, you know, what I was looking at.

Q: So the property identifiers were hard --

A: Right.

Q: -- weren't helpful to you?

A: Right.

Q: So putting Dorchester aside, were you able to do a search for Charleston and Berkeley on the NOIs?

A: Yes.

Q: What was the scope? What were you asked to do?

A: I was asked to look at the NOIs and check the tax map number given against the record owner listed and determine if they actually were the legal title holder at the time of the filing of the notice.

Q: Okay. I'm going to give you some notes and some documents. And let me give Mr. Whitfield-Cargile a copy of what I'm --

MR. WHITFIELD-CARGILE: These weren't attached to your discovery report, were they?

MS. SHAHID: We've not reported on these.

MR. WHITFIELD-CARGILE: I'm going to object on that basis too, Your Honor. They're documents that are brand spanking new, just got them today.

MS. SHAHID: That's true. I don't think we got the NOIs from him until late last week. So I haven't had time to produce them to him. This is true.

THE COURT: And what are these documents, a summary?

MS. SHAHID: These are the NOIs -- these are NOIs where project owner and property owner were the same and where he did further research into ownership. And I've only got three in my hands. The notes -- yeah, I've only got three. He had 24 NOIs where project owner and property owner were the same; 21 of them checked out, either checked out or the property identifier on the NOI made it difficult to verify it or not verify. Three of the 24 did not check out and that's all --

THE COURT: Since that's what we're here for, let's hear it. I would like to know, what was the time period, Mr. Alexander, that you looked at these NOIs? When did they start? What were the parameters? Does it go back to the year 1800? I mean, I know obviously OCRM didn't exist then.

MS. SHAHID: The scope of the discovery was the last six months.

THE COURT: The last six months only. Okay. I remember that now.

MS. SHAHID: Okay. We were provided -- we had 24 NOIs from Beaufort County where property owner and project owner were the same. Twenty-one of those were verified to be accurate or there might have been one where he couldn't tell and he couldn't figure out from the TMS number what to really search. Three of them he verified were not accurate.

THE COURT: All right. Well, we'll hear about that.

MS. SHAHID: Okay.

MR. WHITFIELD-CARGILE: Are these being marked or is she going to do them --

MS. SHAHID: I'm going to do them at the end.

Q: Okay. Tell me, is that accurate there are 24 Beaufort County NOIs?

A: Berkeley.

Q: Berkeley, oh gosh. Berkeley County NOIs. And of those 24, you verified that three that showed project owner and property owner as the same were not accurate?

A: That's correct.

Q: All right. And what's the first one?

A: The first one is Rathbun and Company, LLC.

Q: Well, let me ask you this. Who's shown as property owner on the NOI?
A: Rathbun and Company, LLC.
Q: What's the date of the NOI?
A: The date is June 8, 2009.
Q: Did you check public record, including the desktop analysis that you can do and the RMC office, to determine who actually owned the property that is the subject of that NOI as of the date of that NOI?
A: Yes, I did.
Q: And who owned it?
A: It was ATP Center, LLC.
Q: Okay. And how did you verify that?
A: I searched the deeds out and found the deed where the transfer occurred and it was after the date of the -- the date on those.
Q: Okay. So was there ultimately a transfer -- who owned the property the date of the notice?
A: ATP Center, LLC.
Q: Okay. And then was there a transfer at some point in time from ATP?
A: Yes, there was, and it was January 29, 2009.
Q: And it was to whom?
A: To -- I'm sorry, July 29, 2009. It was to

Rathbun and Company, LLC.
Q: Okay. So ultimately, there was a transfer, but at the time of the NOI, the information was not accurate?
A: Correct.
Q: Okay. All right. What else do you have?
A: The next one is, the owner is listed as Bojangles Restaurants, Inc.
Q: Okay. And did you search to see -- and what's the date of that NOI?
A: That is November 25, 2009.
Q: Okay. Did you search to see if Bojangles actually owned the property described on the NOI as of that date?
A: I did.
Q: And what did you conclude?
A: I found that R.W. Thornley owned it in 2009.
Q: Okay.
A: As of the date.
Q: Did you check conveyances out?
A: I did and on that one I actually found where they had conveyed it into Primax Properties, LLC in February 2010.
Q: Okay. But no conveyances to Bojangles?
A: None.

Q: Okay. And what's the third one?
A: The third one is Mark W. Jordan.
Q: Okay. And Mark is shown as the project owner/property owner?
A: Right.
Q: For the property described in the NOI?
A: Right.
Q: What's the date of that NOI?
A: July 8, 2009.
Q: Did Mark Jordan own the property as represented on the NOI on that date?
A: No, he did not.
Q: Who did own it?
A: Blue Horseshoe II, LLC.
Q: Okay. And did you check deeds out?
A: I did.
Q: And did Mark Jordan ever obtain title to the property?
A: I didn't go -- I didn't go back further than the date of the notice.
Q: Oh, okay.
A: I don't know if he used to, but --
Q: Okay. But did he after?
A: He didn't.
Q: There was a conveyance out of the entity you

just mentioned that owned it the date of the notice. Who was that?

A: Let's see.

Q: Blue --

A: That was the one that I mentioned before. This one actually is still in the name of Blue Horseshoe.

Q: Okay. So that one also did not match up?

A: Right.

Q: Okay. And you also -- let me put these somewhere so I can enter them as a group. And you also did some work for Charleston County?

A: Yes.

Q: Do you have those in front of you?

A: I've just got the notices.

Q: Okay. How many notices were given to you in Charleston County? It says right there (indicating)

A: Oh, 33.

Q: And of those 33 that we asked you to look into, how many -- okay, 33 NOIs were given to you from Charleston County?

A: Right.

Q: And you checked 33 NOIs where property owner and project owner were shown to be the same.

And how many did you confirm were inaccurate out of those 33?

A: Four.

Q: Okay. Let me distribute this list to Mr. Whitfield-Cargile.

MR. WHITFIELD-CARGILE: Did he say four?

MS. SHAHID: Yes.

Q: I'm showing you an NOI. What's the date of that NOI? And by date, I mean dates, the date submitted, date stamp is --

A: Okay. December 22, 2008.

Q: All right. And is that one where project owner and property owner are shown as the same, of Charleston County?

MR. WHITFIELD-CARGILE: Mary, I'm sorry, will you tell me which one you're looking at?

MS. SHAHID: Yeah, I'm getting there.

Q: Are they shown as the same?

A: No, they're not.

Q: Okay. Project owner K-Bo, Inc., Property owner K-Bo, Inc., are they shown as the same on the NOI?

A: Oh, yes.

Q: Yes. Okay. So it's K-Bo, Inc. And you investigated and what did you conclude?

A: That they did not own it.
Q: Okay. And who owned it on the date of the NOI?
A: H.F., LLC.
Q: Any deeds out of H.F., LLC into K-Bo, Inc.?
A: No.
Q: Okay. I'm now showing you Westbrook Brewery. What's the date of that NOI?
A: This one is January 14, 2010.
Q: And is the project owner and the property owner the same?
A: Yes.
Q: As of that date on the NOI? Did you check ownership of the parcel described in the NOI?
MR. WHITFIELD-CARGILE: Mary, I don't have that.
MS. SHAHID: You don't have West --
MR. WHITFIELD-CARGILE: Westbrook Brewery?
A: That's the project name. The owner name is Octopus, LLC.
MR. WHITFIELD-CARGILE: Oh, okay.
MS. SHAHID: Oh, I'm sorry. Octopus, LLC.
Q: Octopus, LLC's shown as owner?
A: Right.
Q: And did Octopus, LLC own it?
A: They did not. They got it April 1, 2010.
Q: Okay. And what was the date on the NOI?

A: January 14, 2010.
Q: Let me try to get it right this time. I'm going to show you one where H.H. Hunt, Inc. was project owner and property owner.
A: Okay.
Q: And what was the date?
A: This one is --
Q: Well, there's a date in the left-hand corner and then there's also an approval date, but the date in the left- hand corner?
A: Okay.
Q: That's an old one.
A: Okay.
Q: Well, how about --
A: February 12, 2007.
Q: Okay. And who's shown as owning the property?
A: H.H. Hunt, Inc.
Q: Okay. And who owned it on that date?
A: There are two different parcels listed here and there were two different owners.
Q: Okay.
A: So --
Q: Was H.H. Hunt, Inc. the owner of either of the TMS numbers shown?
A: No, neither.

Q: Are there any deeds out into H.H. Hunt, Inc.?
A: No, there are not.
Q: Okay. Who did own it on the date?
A: The first parcel was owned by Abberly at West Ashley Limited Partnership. And the second parcel was owned by N&J Properties, LLC.
Q: Okay. And finally I'm going to show you Bojangles from 1/28/2010, K-Bo, Inc. Did we already talk about that one or are there two Bojangles?
A: There were two different ones.
Q: Okay. Who's shown as the owner?
A: K-Bo, Inc.
Q: What's the date?
A: The date is February 1, 2010.
Q: Okay. Did you see who owned it on February 1, 2010?
A: John D. Shields and Linda G. Shields.
Q: Any deeds out of Shields into K-Bo, Inc.?
A: No.
Q: Okay.
A: There are none.
MS. SHAHID: Your Honor, at this time I don't have any other questions for Mr. Alexander, and I would offer these documents as the results of

the Berkeley, Charleston NOI search as a group exhibit.

THE COURT: All right. Over Department's continuing objection, I'm going to admit those exhibits.

(Petitioner's Exhibit Number 34 was admitted into evidence.)

MR. WHITFIELD-CARGILE: Yes, Your Honor. Thank you. Not yes that I agree with that, but thank you for the objections.

MS. SHAHID: And I don't have any other questions. I'm going to just put this up here for the Department.

THE COURT: And, Mr. Whitfield-Cargile, do you have any cross-examination of Mr. Alexander?

MR. WHITFIELD-CARGILE: May I have a few moments, Your Honor?

THE COURT: Certainly.

MR. WHITFIELD-CARGILE: These are all brand new. I'll be quick.

THE COURT: Do you want to take a ten-minute recess?

MR. ALEXANDER - CROSS-EXAMINATION BY MR. WHITFIELD-CARGILE:

Q: Alexander, is that right?

A: Right.

Q: Mr. Alexander, I'm going to show you these

three NOIs, three packages of information. Now, were you able to tell by looking at the NOI itself if the owner that's represented on the NOI was accurate?

A: Not by looking at the NOI itself, but once I checked the records.

Q: Okay. So you go in, and you can do a title search?

A: Exactly.

Q: So you can't tell by looking at the NOI who owns the property?

A: No.

Q: Whether or not it's accurate?

A: No, no way.

Q: Okay. You said no way?

A: Not possible.

Q: I think I have no more questions.

THE COURT: Okay.

MR. WHITFIELD-CARGILE: I guess if he can just sit here while -- if he can stay in for five minutes while the other witness testifies.

THE COURT: Certainly.

MR. WHITFIELD-CARGILE: I'll probably know if I have any more questions.

THE COURT: Okay. Thank you. You may be excused,

Mr. Alexander. Thank you, sir. You may call your other fact witness, Ms. Shahid.

MS. SHAHID: I call Keith Parrella.

THE COURT: Mr. Parrella, if you'd please come around to our witness chair. Raise your right hand and we'll ask the court reporter to administer the oath or affirmation to you.

KEITH PARRELLA, having been duly sworn, testifies as follows:

THE COURT: Okay. Please have a seat and answer any questions Ms. Shahid has for you.

MR. PARRELLA - DIRECT EXAMINATION BY MS. SHAHID:

Q: Mr. Parrella, where are you employed?

A: McNair Law Firm.

Q: And where is your office located?

A: Hilton Head.

Q: What kind of -- are you an attorney?

A: I am, a real estate attorney. I've been with McNair --

MR. WHITFIELD-CARGILE: Judge, I think it's clear, but the same continuing objection is still going on, right?

THE COURT: Yes, sir.

MR. WHITFIELD-CARGILE: Thank you.

THE COURT: Yes, sir.

A: I've been with a lawyer with McNair for 12 years.
Q: Okay. And before that, had you practiced law?
A: I've been with McNair since 2004. Six years prior to that I was with Bethea, Jordan & Griffin and we merged with McNair Law Firm.
Q: Okay.
A: And I did practice law for three years prior to joining Bethea, yes.
Q: All right. And what type of law did you practice?
A: Real estate.
Q: Exclusively?
A: Primarily. More than 90 percent, yeah.
Q: All right. And is that practice in Beaufort County?
A: Primarily Beaufort County, yes.
Q: And are you familiar with the public records that are available to determine title to a parcel of land?
A: Yes.
Q: Okay. And do you utilize those records on a regular basis?
A: I do.
Q: Okay. And did I provide you an initial group

of NOIs from Beaufort County, Colleton County, and Jasper County and ask you if you could determine ownership for those NOIs?

A: Yes.

Q: And were you ultimately not able to work on the Colleton County and Jasper County NOIs?

A: Correct. In the time given, I suggested I would need more time and effort to get those counties covered, but I could look into Beaufort, yeah.

Q: Okay. And I sent you those NOIs in two groups, correct?

A: Uh-huh (affirmative response).

Q: All right. And I'm going to hand you what I believe to have been your initial report in this matter and some NOIs. And do you recall that that initial package of NOIs had some NOIs in it that were older than 2009, 2010?

A: Yes. There was a fair amount. Some I think as far back as 2006.

Q: Okay. And you prepared a report that you labeled as "match" and "don't match." What were you matching and not matching?

A: Tax map parcels from off of the NOIs.

Q: But what was -- were you matching who owned --

on the NOIs --

A: Oh, I'm sorry. Yeah, I'm sorry. I was matching the owner identified on the NOI with the owner that was identified in the public records.

Q: All right. And you created a match and don't match column, correct?

A: Yes.

Q: But then I asked you just to focus on the 2009, 2010 NOIs, correct?

A: Correct.

Q: All right. Does the report in front of you indicate how many documents you reviewed on the initial pass when we first sent you some Beaufort County documents?

A: In total or '09 and 2010?

Q: '09, 2010.

A: '09, 2010. There was five, I believe, from those years.

Q: Okay. And does the report in front of you indicate in the '09-'10, five NOIs from that time period, how many you've confirmed where property owner was inaccurate on the NOI?

A: Correct. Yes, I have three under the do-not-match and two under match.

Q: Okay. And do you have records under your report reflecting the three that do not match?
A: Yes.
Q: And what are the three that do not match?
A: Would you like them identified by owner on the NOI?
Q: You know, maybe I could do it this way and make it easier for you.
A: I think I have some --
Q: Here, let me just hand it to you. I'm going to hand you Care Corps National Building, date of NOI 9/9/2009 and ask if this is a do-not-match?
A: Correct. Yes, that is one.
Q: All right. Did you determine who owned the property on the Care Corps National Building NOI?
A: I determined that the records reflect a different owner other than Care Corps, yes.
Q: And I'm going to show you the second one. Care Corps did not own the property as of the date of the NOI? Do you have any records that the property was ever conveyed into Care Corps?
A: Not this property, no. I do have a deed of a different parcel.
Q: Okay. But not --

A: For Care Corps, not this one.
Q: Not the parcel described on the NOI?
A: Correct.
Q: And then we also have Parker's Convenience Store, Bluffton site, date of NOI January 6, 2010.
A: Uh-huh (affirmative response).
Q: Did you confirm whether the owner as shown on the Parker's Convenience Store NOI actually owned it as of the date of the NOI?
A: I did. It was not the identified Gregory N. Parker, Inc.
Q: Okay. Who owned it?
A: C.I., LLC.
Q: That's a letter C, letter I --
A: C, numeral I, LLC.
Q: Okay. And did you ever find a conveyance into Gregory Parker as shown on the NOI?
A: No, not on this parcel.
Q: Okay. Now, I think you mentioned three don't match but wasn't one of those three a Pulte project?
A: I apologize. Yes, there was three, but -- yes.
Q: And did we decide not to pursue the Pulte projects --

A: Right.
Q: -- based on --
A: Right.
Q: -- the complexity of that project?
A: Yes, correct. Yes, yes.
Q: So in the first batch, you found two that don't match. Did we send you a second batch?
A: Uh-huh (affirmative response).
Q: Okay.
A: Yes.
THE COURT: How many were in the first batch in Beaufort County? How many total NOIs?
MS. SHAHID: From the 2009, 2010 time frame, six.
A: No, I said five. One we cut out. So it was really only four and the question of four, two match, two don't.
THE COURT: Okay.
Q: Okay. I'm going to send you a copy of your second report and ask you can you determine from that report how many NOIs you reviewed from the second batch of documents to confirm whether property owner and project owner are the same? The second one.
A: Yeah, NOIs, I think there was, well, there was 28 provided, but ultimately due to complexity,

we eliminated several. So it was, let's see, eight.

Q: When you say due to complexity we eliminated several, were a group of them Pulte homes --

A: There was one -- there were 16 of the NOIs that identified a single tax map parcel and one owner, and based on preliminary inquiries I made, I decided more time would have been needed to research those.

Q: Okay.

A: So we eliminated those.

Q: Okay. So actually when you take the Pulte home out, you had eight?

A: Uh-huh (affirmative response).

Q: And I found -- I'm holding three where you found they didn't match. I'm going to hand you the first one where the property owner is listed as Gary Juster with a date of May 22, 2008, and ask you if Gary Juster owned the property on May 22, 2008?

A: No.

Q: Who owned it?

A: G.E.J. Oak Island, LLC.

Q: Any deeds into Gary Juster?

A: Not that I could find.

Q: Okay. I'm going to show you the project dated 10/6/2008 where the project owner is shown as, I'm sorry, the property owner is shown as Pass, Inc. Did Pass, Inc. own the property described in that NOI as of the date of the NOI?

A: No. I found that ownership was in the name of Isla Del Rio, LLC.

Q: Any deeds into Pass, Inc.?

A: No.

Q: Okay. And finally I'm going to show you an NOI dated 11/12/2009 and the owner of the property is shown as Palmetto Point Developers, LLC -- yeah, same as above. Did Palmetto Point Developers, LLC, own the property at that point in time?

A: Not to my findings.

Q: Okay.

A: This one was unique. I do need to comment for the record.

Q: Okay.

A: The record show it owned by a different entity, Dumler Properties, LLC, and shows a deed into that entity predating the date of the NOI and no deed out of Dumler Properties, however, there were some deeds in the public records in

the name of Palmetto Point Developers that shared this tax parcel, although I don't believe it was the same property involved. They did apparently at one point own the property and --

Q: Okay. Do you know if they owned it at the time of the NOI?

A: I cannot tell that from what I found. It does not appear so.

Q: Okay. All right.

MR. WHITFIELD-CARGILE: I object, Your Honor. If he says he can't tell, then it does not appear so seems speculative to me, Your Honor.

THE COURT: Okay. I'll sustain that, Mr. Whitfield-Cargile.

Q: Well, tell me what you looked at for Palmetto Point.

A: Yeah. The first thing I looked at was a tax map number, and I looked at the current assessor's records in terms of who the owner of that property is. It's identified as a different entity, Dumler Properties, LLC. Of course we need to take that back to the point of the permit application of the NOI and we see that it was deeded to this entity who is

currently identified as the owner in February of 2007, which predates the date of the NOI.

Q: Okay.

A: What I was referring to in terms of what I did see is there are other deeds in the chain of records or in the public records referencing this same tax map parcel that do have Palmetto Point Developers on them as well.

Q: Okay.

A: So you can find deeds in the public records identifying Palmetto Point Developers, LLC, as the owner of this tax parcel. They all predate the date of the NOI. However, current day records reflect that Dumler Properties owns this tax map parcel and has as of 2007.

Q: Okay.

A: The others that I commented on there was no ownership of -- those entities were not identified at all in the chain of title abstract.

Q: Okay.

A: So I felt that I wanted to just state that Palmetto Point Developers was discovered in the chain of this parcel.

Q: In the chain but was not owning at the time the

application was --

A: Not that I found, correct.

Q: Okay. Are these the ones we talked about earlier? I think so, I just want to get my exhibits back together.

A: No, I think I brought those up here. I think you have every one -- here we go.

Q: And if I could have your two reports.

MS. SHAHID: Your Honor, that's all I have for Mr. Parrella. And I'll take his two reports, too, and mark them even if they're -- mark them as the Beaufort County document review.

(Petitioner's Exhibit Number 35 was marked for identification purposes.)

MR. WHITFIELD-CARGILE: Your Honor, can I have one moment?

THE COURT: Certainly.

MR. WHITFIELD-CARGILE: I don't have the benefit of exhibit numbers and I've gotten confused over what I'm looking at.

THE COURT: You want to take a ten-minute recess and look through them.

MR. WHITFIELD-CARGILE: If you'd like. I'm not going to -- if you want one, I'm fine.

THE COURT: Okay.

MR. WHITFIELD-CARGILE: But I think I can get ready real quickly.

MR. PARRELLA - CROSS-EXAMINATION BY MR. WHITFIELD-CARGILE:

Q: Why didn't you look at the records for Jasper and Colleton County?

A: I didn't have -- well, I didn't have time. There was a volume and that was one limitation. And I initiated my research online and there was only one Jasper -- Colleton is not online so I --

Q: They don't have TMS dat online?

A: Not that I'm aware of. So I wasn't able to get a head start in that respect for Colleton. And Jasper, I think there was only one or two in the initial batch. So given the time limitation, they do have -- they don't have TMS -- their assessor's office data, to my knowledge, is not online, the registrar of deeds records are. So we decided since there were only a couple from Jasper, just cut those out.

Q: Jasper doesn't have TMS data online, does it?

A: Jasper?

Q: Yeah.

A: I don't believe. I don't think they do. I'm not aware of it. I'm only familiar with Jasper County's registrar of deeds researching, which again, was why I said I would want to use someone else for Jasper.

Q: And you didn't look at Pulte Homes. Does McNair Law Firm represent Pulte Homes?

A: We may, to be honest, on certain limited matters. I don't know that for a fact.

Q: Is that why y'all didn't look at Pulte Homes?

A: No, no, no, no, no. No, the reason I didn't -- on the -- there was a volume. There was 17 or 18 NOIs that Pulte had issued all using a similar TMS number, and when I pulled it up using the same methodology that I used for the others, it showed a different owner of record and -- or a different owner of record. And then going back it showed that that owner owned the record prior to the date of the NOI. And I tendered an opinion suggesting that, you know, given the maturity of the project and the developer involved, I would like to look into this more. I would -- I couldn't be certain that Pulte would put the incorrect TMS number on 17 permits without looking at it further.

That property, I know that to be part of a larger parent parcel, too. Then you run into the question there in terms of they may have been retaining the use of a parent parcel and all of those permits -- it was more complex.

Q: Okay.

A: At the end of the day. It had nothing to do with whether we represent them or not.

Q: But McNair does represent Pulte Homes?

A: I don't have knowledge of that. I think so. I believe we may for some limited matters.

Q: And you said that you didn't -- you would want to do additional research, does that mean you weren't able to come to a conclusive --

A: Correct.

Q: -- determination from your desktop review?

A: Correct.

Q: Okay. Is that something that happens sometimes, the desktop review isn't always accurate?

A: Correct, yes. You could pick up on complexities even given a desktop review. In this case there was some that I noted that would merit further search and I wasn't comfortable coming to the same conclusion as I

did with the others.

Q: You did this, a desktop review on all the ones you looked at; is that right?

A: Correct.

Q: Was one of them an Abberly Homes? Is that right? I'm confused.

A: No, I don't believe it was. I don't think that's on my list. That does not sound familiar.

Q: Were you able to tell just from looking at the NOI if the person listed as the owner was accurate?

A: Just from looking at the NOI? No.

Q: I mean, if I were to give you this NOI right here --

A: No.

Q: -- you can't look at it and tell whether it's accurate, can you?

A: Correct. No, not as to who the owner is.

MR. WHITFIELD-CARGILE: I've got no further questions.

THE COURT: All right. Anything else, Ms. Shahid?

MS. SHAHID: A little follow up. Yes.

MR. PARRELLA - REDIRECT EXAMINATION BY MS. SHAHID:

Q: Your preliminary research regarding Pulte, did it reveal that the owner of record for the

parcel shown on the application was not the owner shown on the NOI?

A: Yes, it did.

Q: Who did it show as the owner of record?

A: Using the same methodology, it showed that International Paper Realty Corp was the --

Q: And how many NOIs did that affect?

A: Seventeen.

Q: So without doing further research, your preliminary conclusion would raise the total to 17 additional NOIs if your preliminary conclusions are correct, right?

A: Yes.

Q: Okay. And --

MR. WHITFIELD-CARGILE: I'm going to object. That's speculative. He said he doesn't know if his desktop was used correctly. He has to do additional work.

MS. SHAHID: Well, there was --

MR. WHITFIELD-CARGILE: You know --

MS. SHAHID: I'm sorry.

THE COURT: Okay. Yeah, I believe he testified that he discarded Pulte because it was, well, because it was complicated and because there was one TMS on all of them and he doesn't know

if they left it as one whole parcel and hadn't subdivided it yet and were getting a new permit. So there's just no way to tell. But what you're saying is that there was a discrepancy between owner and project owner?

MS. SHAHID: Well, I detected a clear inference that the McNair Law Firm had provided preferential treatment to those NOIs out of the possibility that it might be a client and I'm trying to dispel that notion to say if we were to report our preliminary findings, there would be 17 NOIs with the wrong -- saying International Paper -- saying Pulte owns it when International still owns it. But the project is mature enough and far enough along that we don't believe that that -- that that conclusion would take a -- he would have to do a lot of work to figure out what's going on there.

THE COURT: Okay.

MS. SHAHID: I just want to dispel the inference that I'm protecting some client from some --

MR. WHITFIELD-CARGILE: I don't think that the desire to dispel an inference leads to admissibility of speculative testimony.

THE COURT: Well, it was a door that was opened.

MS. SHAHID: He basically just said what his initial research revealed.

THE COURT: Okay.

A: I can clarify it, if you like. I mean --

THE COURT: Go ahead.

A: By using the same methodology I used for all the NOIs, it showed that there was a different owner of record at the time the NOI was issued.

THE COURT: Well, question --

A: I gave -- as a lawyer who's been in Beaufort County for 15 years, I gave deference to Pulte in the development of that project and said I would be surprised if they were using the incorrect tax map parcel on 17 permits, so I would like to look into this further. And that was the extent of why I didn't -- it had nothing to do with representation.

THE COURT: Okay. Well, we'll let the record speak for itself on that. Do you have any other questions Mr. Whitfield-Cargile?

MR. WHITFIELD-CARGILE: Can I see the -- I don't have any marked exhibits and my notes are just completely jumbled, but.

MS. SHAHID: I'll give you both, do you want the Beaufort County package or the Charleston/Berk

-- Beauf -- Berkeley, Beaufort or Charleston?

MR. WHITFIELD-CARGILE: Charleston, was that the second one you did?

MS. SHAHID: Yes.

MR. WHITFIELD-CARGILE: Charleston and both Beauforts.

MS. SHAHID: This is all Beaufort and this is all Charleston and Berkeley; 34 is Charleston and Berkeley; 35 is Beaufort.

MR. WHITFIELD-CARGILE: And, Your Honor, maybe if we could have a five-minute recess.

THE COURT: All right. Yeah, let's take ten minutes. It's ten to 4:00. We'll come back at 4:00.

(Break from 3:50 p.m. until 4:04 p.m.)

THE COURT: Whenever you're ready, Mr. Whitfield-Cargile, you may call your next witness.

MR. WHITFIELD-CARGILE: The Department calls Amanda Nodolf.

THE COURT: Amanda, and spell your last name for me, Amanda.

MS. NODOLF: I'm sorry, what was that?

THE COURT: Could you spell your last name

MS. NODOLF: Nodolf, N-O-D-O-L-F.

THE COURT: Come around to our witness chair, as you've seen other folks do, and raise your

right hand and I'll ask our court reporter to administer the oath or affirmation to you.

AMANDA NODOLF, being duly sworn, testifies as follows:

THE COURT: Please have a seat and answer questions Mr. Whitfield-Cargile has for you.

MS. NODOLF - DIRECT EXAMINATION BY MR. WHITFIELD-CARGILE:

Q: Can you state your name for the -- well, I think you already have. Can you introduce yourself to the judge and explain -- tell them where you're employed and how long you've been there.

A: My name is Amanda Kristen Nodolf. I'm employed at DHEC-OCRM and I've been with them approximately two and a half years.

Q: And what's your title down there?

A: I'm a stormwater project manager.

Q: What does that mean? What do you do?

A: I review applications for both Coastal Zone Consistency and stormwater, compliance with stormwater regulations and the NPDES permit.

Q: Did you say Coastal Zone Certification, too?

A: Yes.

Q: Okay. I wasn't listening. I'm sorry. Where

were you educated?
A: I went to Seattle University.
Q: And what degree did you get?
A: I got my degree, bachelor's degree in civil engineering with a specification in environmental engineering and a minor in mathematics.
Q: And when did you get that degree?
A: I'm sorry. Can you please repeat?
Q: When did you get your degree?
A: 2005.
Q: Okay. And when did you move to South Carolina?
A: It was December 2007.
Q: Was that for your job at DHEC?
A: I started my job within days of moving here.
Q: Okay. Have you been in the same section since you started?
A: Yes.
Q: Okay. Same title?
A: Yes.
Q: Okay. Were you, did you have any involvement with the review of the DTG permit application?
A: I reviewed it for Coastal Zone Consistency.
Q: Okay. I want to start, I want to have you kind of walk Judge Matthews through your permitting

process, is there a -- your review process. Is there a review that takes place before you get it?

A: Yes. The permit is, when it initially comes in is reviewed by our permit coordinator to be placed on public notice.

Q: And what do they do?

A: They review the application for completeness and for the checklist that has nine criteria to make sure that the site plans in the application has been received, and then they place it on public notice, which is a ten day public notice period.

Q: Do they do anything else with it?

A: The permit coordinator, no.

Q: Okay. Do they do, do they put anything into EFIS?

A: Our administrative section puts it into EFIS.

Q: Who's the administrative section?

A: That would be Ms. Carrie Griffith.

Q: Okay. And what does she do?

A: She enters applications into EFIS once they go on public notice.

Q: Let's back up.

A: Or just prior to public notice.

Q: I said EFIS and you knew what I was talking about. Can you tell Judge Matthews what EFIS is.

A: EFIS is our environmental permitting database that DHEC uses to track all of its environmental permits.

THE COURT: Okay.

Q: And how does data get into the EFIS database?

A: It gets manually entered by our administrative staff?

Q: And you said that Carrie Griffith with your administrative section enters some information?

A: That's correct.

Q: What information do they enter?

A: She enters in the information that's provided on the Notice of Intent.

Q: And the Notice of Intent is the application form --

A: That's correct.

Q: -- is that right? Okay. So when you get the permit to review, what all has already been done?

A: The application's been entered into EFIS and it's been placed on public notice. I usually get it when the project is on public notice.

Q: Okay. And what do you do when you get the permit application?
A: When I get the application, I review the Notice of Intent and compare that to what's been put into EFIS, as well as I read the narrative that's provided on the project to get a sense of what the scope of the project is.
Q: Did you say you compare it to what's on EFIS?
A: Yes.
Q: Okay. And how do you do that?
A: I log into our EFIS system and review the NOI in relationship to what's put into our database.
Q: So EFIS, is that an online, is that a computer database? Is it online?
A: It's a computer database.
Q: Is it on DHEC network; is that right?
A: Yes.
Q: And you say it's a database. What kind of permitting activity does it contain?
A: It contains all the permits that DHEC issues, or at least the majority of permits I know of that DHEC issues, including the ones that OCRM reviews.
Q: Okay. Does it have records of other

administrative actions?
A: It also contains enforcement actions, violations, incidents and other -- I believe those are the three main categories associated with the permits.
Q: What about permits that have been denied, does it keep a history of those?
A: Yes, it does.
Q: Okay. What about permits that have not, that are just in-house but haven't been issued or denied?
A: It contains those as well.
Q: So does it track the permit through the whole process?
A: Yes, it does.
Q: Okay. I'm going to ask you to pull up Exhibit 37a.
A: I have to find where that is in this big stack.
Q: Actually, you know what, I can just do it on this screen, except you can't see the one we're talking about. We're looking at 37a. Is this what the screen looks like when you first pull up the file?
A: That's correct, yes.
Q: What all -- what kind of information does this

screen contain?

A: The screen contains the basic permit owner information, as well as the date that we receive it, the name of the project, the engineering firm involved and who signed the application, as well as our agency decision once we issue a decision on it.

Q: Is this what the screen looked like when you did your review of the DTG permit?

A: No. No.

Q: What would not have been on this form?

A: The --

Q: And you can point to it so that Judge Matthews can follow what you're --

A: The violation up on the top corner, top right-hand corner would not have been present. Under decision and issued by, those would not have been filled out, and the application disposition would not have been marked as completed.

Q: Why would that information not have been there when you did your initial review?

A: Because the project was still under review.

Q: Okay. Is this what the screen looked like yesterday?

A: Yes.
Q: There's a bunch of buttons, or it looks like buttons, there's a bunch of boxes, there's a bunch of D's and it looks like small boxes with clipboards off to the side of some things and then down at the bottom below that yellow line -- it makes noise when you draw on it -- there's a bunch of other little squares with words like details, site info, other ID's, what are all those?
A: The boxes below your line?
Q: Yes.
A: Those are other screens that you can click on to bring up that provide you with additional information that was listed on the application.
Q: Okay. And those are, you said, links to other --
A: Right.
Q: -- more detail screens?
A: That's correct.
Q: So you come to this screen and what do you typically do first from this screen?
A: I would -- once I've reviewed this screen to make sure that the owner and the signature and the project name on this screen is correct and

matches with the application, I would click on the -- down at the bottom left-hand corner there's a button called details, I would click on that to take it to the next screen.

Q: And so -- and this is the screen that's 37. Do you have the hard copies in front of you so you can confirm the numbers with me?

A: I do.

Q: So the first button you would click on after you review the data on 37a is the details button; is that what you said?

A: I'm sorry, can you repeat.

Q: You said once you've looked at the data and compared it to the actual NOI, the first screen you would go to next is the details button?

A: That's correct.

Q: And --

MS. SHAHID: Your Honor, these are not in evidence yet and I was going to state that I do -- because he's going through these. I do not object to 37a, 37b, 37h and 37i. I do not object to any EFIS's reports related to permit owner DTG Holdings. But as he's going through these, he has 37c, d, e, f. I do not object to 37g, that's also Red Oaks.

THE COURT: Okay.

MS. SHAHID: But I object to 37c, d, e, and f, and this just seemed like the appropriate place to make that objection as he's going through these.

THE COURT: Okay.

MS. SHAHID: Which are EFIS's reports for Jasper Station, LLC, and while this may not be the time to address my objection because he's not there yet, I just didn't want him to put that up on the screen.

THE COURT: Well, tell me what is the objection to Jasper Station, LLC documents?

MS. SHAHID: To the Jasper Station, LLC documents?

THE COURT: Uh-huh (affirmative response). C, d and e.

MS. SHAHID: C, d and e.

THE COURT: Well it's c, d, e, and f.

MS. SHAHID: Yes. The objection to c, d, e and f is that the Department's -- this witness testified that her practice had the name Jasper Station been shown, she could have entered that into EFIS and she could have seen -- we don't know what she would have seen, in other words. She could have entered that into EFIS. She didn't

because the name wasn't shown. We do not know because it didn't happen what information that would provide. So these are EFIS reports that have been printed after the fact and I don't know if the Department didn't go into EFIS at some point and update all of its Jasper Station information, but I would object to the Jasper Station documents coming in if they're coming in to show that this is what Ms. Nodolf would have seen had she conducted an EFIS review using the data entry Jasper Station because she didn't do it on that date and time, so we don't know what it would have seen. I can probably allow them in, you know, if the Court is inclined for other purposes. But to prove that this is the data that she would have picked up on that date in 2008 or 2009 when she was conducting her review when we know from looking at these documents that they're fluid; they change as data is entered.

THE COURT: Right. Of course.

MS. SHAHID: And there's nothing that controls when the data is entered. I would object to these documents, 37c, 37d, 37e, 37f going into prove what data would have been revealed had certain

inputs been made at the time of her review.

THE COURT: Mr. Whitfield-Cargile.

MS. SHAHID: I think it's speculation, Your Honor.

MR. WHITFIELD-CARGILE: Well, Your Honor, at this point I haven't gotten there in my questioning. I am going to lay a foundation for all that and we can address Ms. Shahid's arguments through laying foundation by -- but before I get there, I'm going to go through the exhibits that she has no objection to, 37a, b, g, h, and I and --

THE COURT: Okay. Well, let's go ahead with those and we'll address it as we get to it.

MR. WHITFIELD-CARGILE: Can I go ahead and move for the admission of 37a, b, g, h, and I then?

THE COURT: I believe she's okay with a, b, c, g and -- no, a, b -- okay.

MR. WHITFIELD-CARGILE: Yeah.

THE COURT: Right. We'll go ahead and admit those.

MR. WHITFIELD-CARGILE: I mean, I don't mind c, d, and e coming.

THE COURT: A, b, g, h, and i then admitted without objection.

(Respondent's Exhibit Numbers 37a, 37b, 37g, 37h, and 37i were admitted into evidence.)

Q: And I believe before that great I asked you --

I think you said the first thing you would do in the permit review is click on the detail screen on 37a; is that correct?

A: That's correct.

Q: Okay. And that's the first screen in the lower left corner?

A: It's that button there in the lower left corner, yes.

Q: And does that bring up what you see on 37g?

A: Yes, it does.

Q: And what kind of information is on 37g in the detail screen?

A: 37g contains additional information that's found on notice of Intent on specifically like the total disturbance for the site, the total site area, whether it's associated with a large common plan, if so, what plan it's associated with, the proximity to the nearest receiving water body, what that water body is and it's classification and any wetland impacts with the site.

Q: Okay. And there are other buttons upon this screen, you typically click on other buttons from this screen and do additional review on some of these?

A: Yes.
Q: How does the data on 37g get entered?
A: It gets entered in manually by administrative staff.
Q: And where do they get that -- how does administrative staff get the information that's entered into this screen?
A: It's taken directly from the Notice of Intent.
Q: And do you look at the Notice of Intent to see if the information on this screen is accurate with or correlates what's on the NOI?
A: Yes.
Q: I want to go back to 37a for a minute. There's another button right next to the details screen that says "Site info." What's that?
A: It will take you to another screen shot and it shows, again, that's the project owner as well as a real brief location description of where the project is supposed to be located and the property owner information.
Q: Do you click on the details screen as part of your routine review of permits?
A: Yes.
Q: Did you click on the details screen in your review of the DTG permit?

A: Yes.
Q: What about the site info screen, do you do that as part of your routine review of all permits?
A: Yes.
Q: Did you click on the site info screen in your review of the DTG permit?
A: Yes.
Q: We're going to look at 37b. Is this the window that comes open when you click on the site info button on 37a?
A: Yes, that's correct.
Q: And what data on here do you look at?
A: I look at the site name, the location description, as well as the landowner.
Q: And how -- where is that data? How is that data inputted into EFIS?
A: It's put in manually by our administrative staff.
Q: Where do they get the information that gets put in?
A: It comes from the Notice of Intent.
Q: Do you look at the data that's on the site info screen and compare it with the actual NOI?
A: Yes, I do.
Q: Who does -- is the screen that we're looking at

the screen, what the screen would have looked like when you did your review of the DTG permit?

A: Yes.

Q: Who does it list as the landowner?

A: DTG Holdings.

Q: And how did you say -- I think I already asked, how is that data entered?

A: Manually.

Q: And what was the source of that data?

A: By our administrative -- or the Notice of Intent.

Q: There is a button, or not a button, there's a letter "D" off to the right of the word, of landowner. What's that?

A: That's a button, it stands, the D stands for details. You click on that it'll bring up more information regarding DTG Holdings.

Q: That's a link to another screen?

A: Yes.

Q: Do you click on the -- you said that's details --

A: Yes.

Q: -- that's what it means? Do you click on the details button as part of your routine permit

review?
A: Yes.
Q: Did you click on the details button when you did your review of the DTG permit application?
A: Yes.
Q: What kind of information does the details screen contain?
A: It would provide you with the company name and their mailing address, and then it would list up on the upper corner whether or not they had any enforcement or violation actions or incidents against them.
Q: Is it -- where are the detail -- well, let me -- I believe 37h, is this the details screen that came up when you clicked on the D for DTG Holdings?
A: It's the current screen. The V would not have been up in the corner.
Q: What's the V?
A: The V stands for violations.
Q: How do you know that would not have been there?
A: Because when you click on that violation, it's in reference to violations associated with this -- our particular agency actions with the cases in regard to --

Q: And you know that wouldn't have been entered when you did your review?
A: That's correct.
Q: Okay. So there's a bunch of -- well, there's a V up there now. Are there other buttons that can appear in that upper right-hand corner?
A: There can be an E, which would stand for enforcement action; an I, which would be for an incident. There's a few other letters related to bankruptcies and legal proceedings that could also appear.
Q: Okay. There's a series of buttons down at the bottom. Let me draw a line across the screen. In looking at 37h, what are those buttons links to?
A: They're links to additional information regarding -- specifically the permit button is in relation to permits that DTG Holdings has or holds or has held with the agency. And then there's, you know, more contact information and documents that we have.
Q: How is the data on this screen entered into EFIS?
A: On this screen, it's entered in manually.
Q: And where does the data come from?

A: It either gets -- I should say, it either gets entered manually from the Notice of Intent or if a record had already been created because a previous application was on file with that company, then it just gets linked to the existing information that we have for them.

Q: Is this a cumulative listing of, or does this screen provide access to a cumulative listing of all information for the company listed?

A: Yes.

Q: And the title on this form is "Company Update"; is that right?

A: That's correct.

Q: And is that a cumulative list of all permits or enforcement actions or other information you have on that particular entity?

A: Yes.

Q: Okay. If there is a V or an E listed at the top upper hand corner, is that something that you would click on as part of your routine review?

A: Yes.

Q: Did you click on a V or an E when you did your review of this project?

A: There were no V's or E's associated with DTG

Holdings.

Q: Okay. So there was nothing to click on in that section of the screen?

A: That's correct.

Q: What about down in the lower left-hand corner, do you click on the permits button as part of your routine review of permits?

A: Yes.

Q: And did you click on the permits button when you reviewed the DTG permit?

A: I did.

Q: Okay. And is 37i the screen that comes up when you click on the permit button on 37h?

A: Yes, that's the screen.

Q: And what information is available on this screen?

A: It's a listing of all the permits that have either been applied for or approved for that company.

Q: Okay. And how is this data entered into the system?

A: Those at one time were all entered -- when the applications are received, are entered in manually.

Q: Does EFIS track information relating to this

entity when it's entered, or does someone have to go in and magically put it into this screen every time there's a new permit application?

A: No. EFIS ties together once you select the company that's the -- or the owner, it ties together all the existing permits that we have for that. So it compiles this list for us.

Q: So could you just go in and bring up a list of permits that DTG Holdings has?

A: Yes.

Q: Could you pull up a list of permits that any particular entity has?

A: As long as they had been issued a permit or applied for a permit.

Q: Okay. What does your typical -- what's your routine review on EFIS when you're looking at this screen? What do you do?

A: I would look through to see if any of those permit applications were in relation to the particular site that we're dealing with in this case.

Q: And how do you -- how do you do that?

A: Well, you're -- down at the bottom part of the --

Q: And you can touch it to help Judge Matthews --

A: Down, I guess below that line, you get a brief summary of what the permit application was, whether it's something that's been approved by the agency or denied or if it's still in review. You can see the site name. That would give me a general idea of where that permit was located, as well as the identifiers provided give me an idea of where the permits are located for the permit numbers.

Q: When you say the identifiers, is that the number in this column that you're a --

A: Yeah, sorry. Yeah.

Q: Okay. The data that's below the line, it's highlighted in black.

A: Uh-huh (affirmative response).

Q: How do you get data to appear on that portion of the screen for a particular permit?

A: To appear on the lower part of the screen, you just highlight the permit up at the top.

Q: So currently the data that's in the screen, is that a summary of the permit that's highlighted in the list up here?

A: Right. It's this data showing on the bottom of the screen is associated with that identified 66049, which is the very first one on the list.

Q: If you put the, if you highlighted this, the second row, would data for that permit appear in the shaded area, in the dark area at the bottom of the screen?
A: Yes.
Q: Okay. Did you scroll over the permits that were listed in this screen when you did your DTG review?
A: Yes, I did.
Q: Is that something you do as a routine part of your EFIS review?
A: I try and do it on a routine basis, yes.
Q: Okay. Can you get more details on a particular permit from this screen?
A: Yeah. If you have any questions regarding any of the permits, you can click down at the bottom. There is a little details button and it'll give you, it'll bring you the main permit screen for the one that you've selected.
Q: And I've just moved your arrow because there's so many marks on the screen.
A: That's fine.
Q: Is it this button down here in the bottom?
A: Yes, that button.
Q: Okay. Do you ever click on that button when

you do your review?
A: I do, yes.
Q: How do you determine if you're going to click on that button?
A: If I feel that the application has any potential to be related to that particular site.
Q: Okay. Did you click on any permits for DTG and bring up the details when you did your review?
A: In this case, no, because the only one related to the site is the actual permit that was -- that we're here to discuss today. The rest of them are in relation to other permits that I've worked on in other parts of the county.
Q: And how did you make that determination?
A: Well, one, you can tell by the identifier the permits that are issued here. They all start with a 07, which means they're in Beaufort County, they're not in Jasper County.
Q: Okay.
A: The certifications above them are all associated with those particular permits, so it's -- they're all linked together. It's our permit and our CZC review of the permit.
Q: Okay.

A: And then you can see these two items here, those are water supply and wastewater supply permits, so they're not anything that our agency --

Q: And you can tell that by the WS and the WW?

A: Right. As well as under permit type, it says water, public supply, water and wastewater construction.

Q: When you say permit type, is that this column right here?

A: Yes.

Q: Okay. And it looks like there's a scroll bar on here. Does that mean there are more permits for DTG than what's listed on -- than what we can see on the printout on the screen that we have here?

A: Yeah. Yes, it's correct.

Q: Did you scroll down and look at the other permits that were listed?

A: I believe so.

Q: Okay. When you're doing your review, is there a standard for when you will collect details, to bring up more details on a particular permit?

A: I'm not sure what you mean by a standard.

Q: Well, how do you determine -- do you routinely open more permits, or open the details button to look at a particular permit?
A: I do if I feel that the permit is related to that site.
Q: And you make that determination just by looking at the information --
A: From the information --
Q: -- that's listed --
A: Right.
Q: Okay.
A: Within that summary and from information that I know about the proximity of it.
Q: Okay. Was there any data listed for DTG that piqued your interest and made you want to click details?
A: No.
Q: Okay. Going back to 37a, and this was the initial screen that you looked at.
A: Uh-huh (affirmative response).
Q: Do you routinely click on, open up the site info link?
A: Yes.
Q: Is that something you do on all the permits you review?

A: Yes.
Q: Okay. And when you get to 37b, that's the -- the site info screen that comes up, right?
A: Yes, that is.
Q: Do you routinely click on the landowner details?
A: Yes.
Q: And you did that in the DTG review?
A: Uh-huh (affirmative response). That's correct.
Q: And then 37h is the next screen that comes up, I believe, and this is the landowner details for DTG; is that right?
A: That's correct.
Q: When you get to the landowner details screen, do you routinely click on the permits button that's in the lower left-hand corner?
A: Yes.
Q: If there's a letter listed in the upper right-hand corner, is that something you would routinely click on?
A: If the letter is listed, yes.
Q: Going back to 37b, and this is the site info screen; is that right?
A: Yes.
Q: All right. Is there a way to figure out if

there's a permit application pending, and Jasper Station is listed as the landowner, is there a way for you to figure out what the detail screen would bring up if were listed?

A: If Jasper Station were listed --

Q: Yes.

A: -- as the landowner? By clicking on the details and navigating to the permits that had been issued or applied for by Jasper Station, you'd be able to determine.

Q: Okay. So if there's a permit that Jasper Station is listed as the landowner, you can bring up the details screen?

A: If their the permit, they're listed as the landowner, I'm not -- I can -- if they're listed as the landowner, in this case, instead of saying DTG Holdings, it said Jasper Station, I would be able to pull up any permits associated with Jasper Station as a company.

Q: Okay. And did you -- did you print out a screen of the company update for Jasper Station?

A: Yes.

Q: And is the company updated screen that is specific to a particular permit or is it

specific to a particular entity?
A: It's specific to the company.
Q: Say that again.
A: It's specific to the company.
Q: Okay. Is 37c a company update sheet that lists Jasper -- for Jasper Station, LLC?
A: Yes, it is.
Q: How do you know that?
A: Because the full name of the company is listed as Jasper Station, LLC at the very top left-hand corner and, as you've indicated, up above that it says company update.
Q: Is this what the screen would look like today, or is it what the screen would have looked like when you did your review?
A: This is what the screen looks like today.
Q: Is there information that would not have been included when you did your review if Jasper Station had been listed then?
A: I believe the --
MS. SHAHID: Objection, speculation, Your Honor. She didn't look at the screen. She did not look at the screen when she did her review. I don't believe she can speculate as to what the company update screen would say at the time she

did her review. If 37c --

MR. WHITFIELD-CARGILE: I'll lay a foundation.

THE COURT: Okay.

Q: Do you have a way of knowing if the information on here would or would not have appeared when you did your review?

A: Yes, EFIS tracks when we update the screen shots.

Q: Okay. And did you look at this screen, 37c? Have you reviewed it?

A: At the time of the application review or --

Q: No, this screen we're looking at now. Have you looked at the data that's on this screen?

A: Yes, I've looked at the data on this screen.

Q: And have you looked at it to determine if any of the information listed on the screen would not have been there when you did your review?

A: Yes.

Q: And is there data that would not have been there?

A: The V, the red V up in the left-hand -- or the right-hand corner, I don't know --

Q: How do you know that that would not have been there?

A: Because when you click on that V, the last time

-- the created date is a date that's after my review.

Q: And when was your review?

A: My review was the first week in March.

Q: Okay. What about the E, are you able to determine if the E would have been there?

MS. SHAHID: Your Honor --

A: Yes.

MS. SHAHID: -- again I object.

MR. WHITFIELD-CARGILE: I'm laying foundation. My question was are you able to determine.

THE COURT: Okay, I'll permit the question.

Q: Are you able to determine if the E would have been there?

A: Yes.

Q: And how can you make that determination?

A: When the --

MS. SHAHID: Your Honor, this is where I would object.

MR. WHITFIELD-CARGILE: I'm still laying foundation, Your Honor.

THE COURT: Okay. Well, I'll --

MS. SHAHID: Your Honor --

THE COURT: Okay.

MS. SHAHID: I'm sorry, I just --

MR. WHITFIELD-CARGILE: I've got to be able to lay foundation, Your Honor.

THE COURT: Yes, yes, you may proceed.

Q: How would you make your determination that the E would have been there?

A: When you select the E, another screen would pop up and it tells you the date that that E was created, when the enforcement action was created, and then of course any subsequent updates to it.

MS. SHAHID: Your Honor, my objection is that when she selected the E was after the fact. She did not actually get to select the E the date of her review.

THE COURT: And I believe she testified to that, didn't she?

MR. WHITFIELD-CARGILE: She did.

MS. SHAHID: If these --

MR. WHITFIELD-CARGILE: Jasper Station wasn't listed.

THE COURT: Yeah, well --

MR. WHITFIELD-CARGILE: The NOI was inaccurate, so it wouldn't have been listed. And she's laying a foundation for how she would know whether or not something was or was not listed in that time she -- if the application had been

properly filled out.

MS. SHAHID: I don't know how, if she didn't do it, she can testify today that that's what she would have learned. If the -- if 37c is offered for purposes of this is what EFIS shows us now, I can't argue with that. She's established that foundation. But if 37e -- c, I'm sorry -- is offered for the purposes of that E would have popped up on the day I did my review and I would have clicked on that E and I would have gotten other information, that's speculation.

MR. WHITFIELD-CARGILE: And, Your Honor, I haven't offered into evidence. I'm trying to lay a foundation and every foundational question I ask, she interjects her objection to the admissibility. I haven't asked a single question that asks what was on there. I'm still laying the foundation. She's asking -- she's putting objections to every foundational question I ask so that I'll get thrown off of my foundation and so I won't be able to lay a proper foundation.

MS. SHAHID: I think I'm more concerned about the answer being, you know, something that --

THE COURT: Certainly.

MS. SHAHID: -- the bell already gets rung before I've objected. I'm not trying to throw him off.

THE COURT: I understand and I understand for the purpose which you think it is admissible and the purpose for which it isn't. So what other questions do you have that are foundational?

MR. WHITFIELD-CARGILE: We're going to look at the screen that she looked at to determine whether the E would have been there and she's going to explain how she can tell when the E was put into EFIS, and how she can -- by looking at the data on there and how she can tell if it was in there before or after the DTG review took place.

THE COURT: I think she's already testified that it wouldn't have been on there because you can tell from the date that it was put in after --

MR. WHITFIELD-CARGILE: That was with the V.

THE COURT: Okay, that was with the V, okay. Well, then you may proceed --

MR. WHITFIELD-CARGILE: And now we're looking at the E.

THE COURT: Tell me again what the E stands for.

MR. WHITFIELD-CARGILE: The E stands for enforcement.

THE COURT: Enforcement, okay. Go ahead, ask the question.

MS. SHAHID: And I do have one more objection, but I guess I don't want to interrupt his foundation, but based on his statements, I do have a concern. He's going to take you to the next screen and he's going to say that this is what she would have seen when she clicked on E because this is what EFIS would have shown her. She testified other staff, not her, enters the --

THE COURT: Initially entered --

MS. SHAHID: She -- you know, if she had entered the data herself, then I wouldn't have an objection. But others -- and other staff entering the data and then she says EFIS gives you an automatic update. Well, I think that's hearsay, Your Honor, that we would rely on --

MR. WHITFIELD-CARGILE: Well, she didn't make a contemporaneous objection to that, that's for sure. I mean, the fact that she's already testified that EFIS provides data that links to that permittee when the last data was entered that relates to that particular permittee or

that particular entity, rather, and it's linked to that entity.

MS. SHAHID: I didn't object to it because I had stipulated to the admission of the DTG Holdings exhibits, but as it relates to these exhibits, that's my concern, is that she did not enter the data. I understand what they're saying. They're saying that EFIS, I believe her testimony is EFIS gives you an update and tells you when the data was entered. That's hearsay, Your Honor. She didn't enter the data. Whatever EFIS automatically tells you is hearsay. I can't cross-examine EFIS. There's no way to validate or verify that that's when the data was entered. Again --

MR. WHITFIELD-CARGILE: Well, it's a business record that would come in under the business record exception. It's a regular -- it's a -- I think there's plenty of foundation that EFIS is where DHEC keeps its business records.

THE COURT: Well, yes, but she did testify it has to be manually entered, and I guess what I'm trying to figure out is, even if I -- even if it is validly entered and there's no hearsay issue because of business records, you know,

what exactly is the relevance of these other matters? Do they relate specifically to this action? Relate specifically to the stormwater? I mean, I don't know what they are.

MR. WHITFIELD-CARGILE: Well, it goes to show what would of -- if the NOI had been properly filled out and they hadn't misrepresented the owner, then when we start with the first screen, 37a, and then you bring up site information, which is 37b, and it says landowner, if that had been Jasper Station, the details on Jasper Station would have been the information that she reviewed, Your Honor. It's highly relevant.

THE COURT: Well, but I got to see --

MR. WHITFIELD-CARGILE: And she won't let me lay a foundation.

THE COURT: Well, I think you have laid a foundation, but I'm looking at -- at a. and I'm trying to figure out the date on which she reviewed that and you're saying -- but I can't tell without knowing the dates on which these enforcement or actions or violations were put into the systemW what would have been brought up on the first day she reviewed it. And I'm not even clear what was the first day she

reviewed the DTG Holdings.

MR. WHITFIELD-CARGILE: Well, I can ask her those questions, Your Honor. I mean, that's my plan. I find it problematic that someone is objecting to the admissibility of the document before it's offered, but may I proceed with my foundation, Your Honor?

THE COURT: Yes, you may proceed.

MR. WHITFIELD-CARGILE: Ms. Shahid was successful because I forgot where I was, but I think I can pick it back up.

Q: Okay. I asked you if you have a way of knowing when this E on 37c would appear in EFIS?

A: Yes.

Q: And how would you know that?

A: When you click on the E, it's similar --

Q: When you clicked on the E yesterday, did the 37f come up?

A: Yes, 37F came up.

Q: Okay. And how can you tell from this whether an E would have appeared on 37c when you did your permit review?

A: You can see here under the created date that that was February 12, 2009, so it --

Q: There's multiple errors on here. What were you

-- can you point to it again?

A: You can see that an E was entered into the system or an enforcement action was entered in on February 12, 2009.

Q: Okay. And --

MS. SHAHID: Your Honor, not to interrupt his foundation, but that, I believe, still is hearsay. I'm not sure how you prove -- if you're offering this document to prove that somebody other than Ms. Nodolf entered this information on that date, which predated her review, you know, I'm not --

MR. WHITFIELD-CARGILE: But she didn't say --

MS. SHAHID: -- sure that qualifies for the hearsay exemption under business records. I think if --

THE COURT: They need to have the maker of that document here then or the person who entered that information into the record.

MS. SHAHID: And, I mean, I -- I mean, I continue to say that these documents -- these documents reflect -- I would stipulate that these documents reflect the data that's available to the agency on the day they got on the screen and printed these documents, which I believe is

long after the fact of the DTG application review.

THE COURT: Okay. Can we admit them with those stipulations?

MR. WHITFIELD-CARGILE: Well, Your Honor, yes, we can admit them with those stipulations, but I'm going to get more information out of them, and if I have to proffer that I will. But I think the person that actually entered the data -- I think it comes in as a business record.

THE COURT: Well, I think it probably can come in as a business record and, I mean, there's not a dispute that there is an enforcement action. I mean, is there?

MR. WHITFIELD-CARGILE: No.

THE COURT: So I don't really understand --

MR. WHITFIELD-CARGILE: There's not a dispute that there --

THE COURT: -- what the harm is to --

MR. WHITFIELD-CARGILE: -- is an enforcement action.

THE COURT: -- Jasper Station at this point if there are enforcement actions out there because of the stormwater fill in, so --

MS. SHAHID: It's the assumption that had she done something that she didn't do because she wasn't

able to do it because Jasper Station wasn't on the NOI, So had she done something that she didn't do --

THE COURT: That they never would be a complaint --

MS. SHAHID: -- that something else would --

THE COURT: -- in the first place.

MS. SHAHID: -- have happened. Right.

THE COURT: Right.

MS. SHAHID: And I don't think we can use these documents to reach that ultimate conclusion not knowing what the screen looked like on the date she did her report.

THE COURT: I agree with --

MS. SHAHID: That's my point.

THE COURT: I agree with that point completely, that you can't make that leap and I don't think you can --

MR. WHITFIELD-CARGILE: Well, Your Honor --

THE COURT: I believe -- I believe I have ruled Mr. Whitfield-Cargile that it can go into evidence as business records and I think you can get what on cross-examination.

MR. WHITFIELD-CARGILE: And just for the record, it also comes in I think as a record of regularly conducted activity under Rules 803-6 and it's

not hearsay. Well, it started out as hearsay. This is an exception to hearsay.

THE COURT: Exception to hearsay rule. I agree with you and I'll sustain you, Mr. Whitfield-Cargile.

MR. WHITFIELD-CARGILE: Okay. Thank you, Your Honor. Well, so at this time are these exhibits admitted?

THE COURT: Yes.

MR. WHITFIELD-CARGILE: Okay, 37. Does that include B, C --

THE COURT: Includes them all, everything under 37.

MR. WHITFIELD-CARGILE: Okay.

(Respondent's Exhibit Numbers 37 c, d, e, and f are admitted into evidence.)

Q: Looking at 37f, what's 37f?

A: 37f is a entry of an enforcement action.

Q: Can you tell when it was created?

A: Yes.

Q: When was it created?

A: February 12, 2009.

Q: When did you do your review of the DTG permit application?

A: I don't remember if it was the exact -- the exact date, but I know that it was the very

first week in March. It was either the 2nd or the 4th of March.

Q: Okay. So you know it was in March, and what year?

A: Of 2009.

Q: Was that after 37f was created?

A: Yes.

Q: Is 37f a document that's created in the regular course and conduct of activity when a violation is entered into EFIS by a DHEC staff person?

A: It is, as far as I'm aware, yes.

Q: Back up to 37c. Based on your routine review of permits and the actual review you did of the DTG permit application, if Jasper Station had been listed as the landowner in the NOI and you click details on 37b to bring up the details on that landowner, is 37c the copy of, or the document that shows the details for Jasper Station?

A: Yes.

Q: And if there was an E that had come up, would you click on that as part of your routine review of permits?

A: Yes, I would.

Q: What would you do once you click on that and

it's bringing up this screen on 37f as part of your routine review?

A: I would review the action to see if it as applicable to the site.

Q: When you say applicable to the site, what do you mean?

A: I mean that it was actually on that -- on the site that I was reviewing for and that it was in relation to something that -- that I would have otherwise been reviewing.

Q: Can you tell by looking at 37f if you see this whether or not that relates to the project you were reviewing?

A: Yes, I can.

Q: How can you tell?

A: Well, I would be able to look up the -- it lists the permit number and permit -- I'm sorry. Program ID and permit ID, which I'd have to go and look to see if it was for the site that -- that I was reviewing on, but it describes the violation itself as land disturbance without a permit.

Q: Okay. And what's the significance of that in your routine review of permits? If you see that, what would you do?

A: Land disturbance without a permit would make me want to look at the application closer to see that it was -- how it related to that violation or to that actual land disturbance activity that had gone on on the site.

Q: Okay. Let me back up to 37c. I think you said -- well, did you -- when you clicked on the details on 37b, the company update for DTG Holdings came up; is that right?

A: DTG Holdings was listed, yes, when I did my review.

Q: And is that 37h?

A: That is 37h.

Q: Did you click on the -- did you say -- you said you did click on the permits button on 37h; is that correct?

A: Yes, I did.

Q: Okay. If Jasper Station had been listed as the landowner -- and 37e is the details for Jasper Station; is that correct?

A: 37e is the permit information screen for the permit that the Jasper Station had --

Q: Oh, that's incorrect.

A: Right.

Q: Okay. Is 37c the landowner details for Jasper

Station?
A: Yes.
Q: Okay. And did you click on that permit screen to bring up the exhibit? Or did you bring up --
MR. WHITFIELD-CARGILE: Your Honor, can I look at my notes?
THE COURT: I'm sorry, what do you need?
MR. WHITFIELD-CARGILE: Can I look back at my notes for a second?
THE COURT: Take your time. Although we are getting close to the five o'clock hour.
(Off the Record Discussion.)
Q: Is 37d the permit that was granted for Jasper Station?
A: 37d?
Q: Yes.
A: 37d is a listing of all the permits that are -- have been either applied for or issued to Jasper Station.
Q: So if you clicked on permits in 37c, was 37d the screen that would come up?
A: If I? I'm sorry, can you repeat that?
Q: If you had clicked on the permits button and 37c, which is on the screen.

A: Uh-huh (affirmative response).
Q: This 37d screen would come up?
A: Yes.
Q: And is that a similar screen to 37i which you clicked on when you did the DTG review?
A: Yes, it is.
Q: Okay. Can you tell by looking at 37d if these permits would have been listed in March 2006 when you did your permit review?
A: Yes.
Q: How can you tell?
A: On the right-hand side there's a column called created date.
Q: And can you tell, does it say what date those items were created?
A: Yes, it does.
Q: And what are the created dates?
A: The top one is December 7, 2006, the second one is August 7 of 2006, and then the last one is August 2 of 2006.
Q: Can you tell by looking at 37d, if you were -- well, did you -- can you tell by looking at 37d if you would have opened any of the permits listed on 37d --
A: Yes.

Q: -- as part of your DTG review?
A: Yes.
Q: How can you tell?
A: Well, you can see already that the bottom part of the screen is for the one that had been selected in the screen shot shows that the status of the permit is denied application.
Q: Can you tell if it's within the vicinity of the DTG application?
A: I can see that based on the site address it says Hardeeville in the Okatie River area, which is in the proximity of the Red Oaks Plaza Phase III.
Q: If you -- did you open, would you have opened details on any of these three screens as part of your routine review if these permits had been listed?
A: I feel that I would have on these ones, yes.
Q: Why do you feel that way?
A: Because of the status as being denied.
Q: Okay. And is 37e a permit detail sheet for any of those permits?
A: 37e?
Q: 37e is on the screen.
A: Yes, 37e is a permit detail screen for the

stormwater application.

Q: Is that the one that's listed on the bottom on 37b?

A: No, it's actually the third one in the list.

Q: Okay. Well, what information on 37e would have piqued your interest?

A: The disposition of denied.

Q: And when you do your routine permit review, do you ever go pull physical files?

A: Yes, I do.

Q: When do you do that?

A: When I need to -- need to look back at a file and associated with the permit that I'm reviewing.

Q: How do you determine if you need to look back into the file?

A: If something such as like an application that's been denied shows up in its relation to the site that I'm reviewing, that would make me want to look at the site and look at the file that we have to see what reasons it was denied for.

Q: Would you do the same if there was an enforcement for a particular site?

A: I don't have access to enforcement files.

Q: Okay. Would you pull a permit file if there was an enforcement that indicates that it has a permit number?
A: Yes, I would pull the permit file.
Q: And 37f was the detail screen for the enforcement on the Jasper Station landowner detail; is that right?
A: That's correct.
Q: Is there anything on here that would have -- is there any file listed on here that you would have pulled?
A: The file -- sorry, it's cut off on this screen -- but it lists the permit number, which is the SCR10E861. I would have pulled that permit number.
Q: Can you point that out to Judge Matthews, please.
A: Certainly.
Q: Oh, I see what you're saying. Is it on there now?
A: This is the permit number, as well as the number below it is also a way of referencing that permit.
Q: And that was created, this screen was created before you did your review of the DTG permit?

A: Yes.
Q: Okay. And it would have been linked to Jasper Station, LLC?
A: Yes.
Q: Okay.
MR. WHITFIELD-CARGILE: Beg your indulgence for just a moment, Your Honor.
THE COURT: Sure, take your time.
Q: When there is a permit, a prior permit listed on the NOI, is there anything you do with that as far as your routine review?
A: When there's a prior permit listed on the NOI?
Q: Yes, in Section 3(I) of the NOI.
A: I can look up the NOI or look up the permit number in EFIS
Q: You pull it up in EFIS?
A: Yeah.
Q: Okay. And what do you do with that?
A: You can look to see the status of that permit, whether it's an open permit or closed or it's been terminated.
Q: Can you get details on the permit?
A: Uh-huh (affirmative response).
Q: Is that something you routinely do?
A: I routinely do it, yes.

Q: Can you search for a permit by permit number in EFIS?
A: By permit number, yes.
Q: Can you search for a permit by permittee, by the permittee in EFIS?
A: You can look up the permit, you can look up the permittee and then sort through to find the permit that you're looking for.
Q: Okay. So if you want to know if a particular entity had a permit, you can put a name in and see if they did?
A: Yes.
Q: Were you involved in the review of the Jasper Station permit application?
A: No.
Q: Were you involved in any way in the enforcement conferences and the site inspections regarding the Jasper Station --
A: No.
Q: -- violation? Did you have any involvement at all with Jasper Station?
A: No.
Q: What was your knowledge of Jasper Station at the time you did your permit review in March 2009?

A: I was aware of the name, the project Jasper Station because it had been brought up in a staff meeting around the time of the denial being issued. I think it was in the fall of '08. So I knew the name, but I didn't know the proximity or the location of the Jasper Station tract.

Q: Okay. Did you know any details about the Jasper Station?

A: No.

Q: Okay. Have you been sitting in here today?

A: Yes.

Q: Have you been listening to the testimony?

A: Yes.

Q: Ms. Shahid showed Mr. Smith some site inspection reports. Were you involved in any of those?

A: No.

Q: If there are wetland issues on the site, does that affect your CZC review?

A: Yes, it does.

Q: If there had been wetlands that were filled without a permit, would that affect your CZC review?

A: Yes.

Q: Why?
A: Wetlands -- if wetlands are shown on the site, it would initiate -- it would have initiated additional stormwater review for the project, as well as the wetland impacts would have had been reviewed by our wetlands staff to be deemed consistent with our Coastal Zone Management program document prior to any approval issued by myself.
Q: Okay. And you did the Coastal Zone Consistency review for this project; is that right?
A: That's correct.
Q: Did someone else do the stormwater review?
A: Yes.
Q: Who was that?
A: Ife Ekpenuma in our regional office.
Q: Okay. So what -- how would wetlands have changed any of the review you did?
A: If wetlands were on the site, I would have reviewed the site plans just to make sure that they're shown on the site, but not being impacted in any way. If wetlands were listed as being on the site and being impacted, I would have had to get approval from our OCRM wetlands staff of those impacts prior to

issuing a Coastal Zone Consistency Certification.

Q: So you would have passed the application to another person who could do more detailed wetlands review?

A: In essence, yes.

Q: Okay. If there -- if there were wetlands that had been filled, but there's a question as to whether they were filled legally, is that something that would cause you to do additional review?

A: Yes.

Q: How?

A: I would have consulted with our wetlands staff to see if those impacts were consistent.

Q: Did you believe there to be wetlands on the site when you did your review?

A: I did not think that there were wetlands on the site.

Q: Why not?

A: Because the Notice of Intent indicated that there were no wetlands on the site and the Army Corps letter that was provided said there were no wetlands on the site.

Q: Did you believe there to be wetlands on the

site that had been filled when you did your review?

A: No.

Q: Why not?

A: I was not aware of any wetlands on the site, whether they were filled or not.

Q: Do you also -- in your work for DHEC, do you also do you also do stormwater review of permit applications?

A: I do.

Q: Are you aware if the presence of wetlands would affect the stormwater review?

A: Yes, it would.

Q: How?

A: If wetlands are onsite and you're conducting a stormwater review, you have to make sure that the stormwater discharges from the site are treated prior to discharging into a wetland. Also, during construction, you need to make sure that the construction plans show that those wetlands are not going to be impacted by use of appropriate BMPs surrounding the wetlands to protect them.

Q: Is there anything else that the wetlands would trigger in your stormwater review?

A: Not that I can think of.
Q: Do drainage calculations have to take into account wetlands?
A: That would be in relation to the discharge into the wetlands, yes.
Q: Okay. Did you already describe that?
A: I believe I did, but if you need further clarification --
Q: If there are wetlands that have been filled and there's a question about whether they were filled legally, is that something if you were doing a stormwater review you would do initially?
A: I believe that would play into the Coastal Zone Consistency review. Again, we would need to get further information from our wetlands staff.
Q: Okay. When you look at an NOI, do you believe -- do you make an assumption that the information is true or false on the NOI?
A: I believe the information provided on the NOI is true.
Q: Why?
A: Because the applicant signed a statement indicating that everything is true on the NOI.

Q: Okay. Do you make it your practice to research and see if someone other than the person listed as the property owner is actually listed?
A: No.
Q: When you see a blank on line 3(i) on the NOI -- are you familiar with line 3(i)?
A: I'm familiar with it. I probably should have a copy in front of me.
Q: I'll put it all on the screen here.
A: Okay.
Q: 3(i) is the line that says list all state and federal environmental permits that approved for -- permits or approvals applied for or obtained for the site.
A: Uh-huh (affirmative response).
Q: Are you familiar with that line?
A: Yes.
Q: When you see that line blank, how do you interpret that?
A: If the line is left blank, I interpret it that there are no other federal or environment permits or state permits issued for the site.
Q: Why?
A: Because there aren't any listed.
Q: Can you search in EFIS for permits by TMS

number?

A: No.

Q: Can you -- do you search in EFIS by longitude and latitude numbers?

A: No.

Q: Do you -- when you look at an NOI, do you look at the longitude and latitude numbers and go find other permits to compare longitude and latitude numbers with?

A: No.

Q: If there are longitude and latitude numbers listed elsewhere in a submittal packet, do you make it your practice to compare those longitude and latitude numbers elsewhere in the submittal packet with the longitude and latitude numbers on the NOI itself?

A: No, I do not.

Q: Do you do site inspections prior to permit issuance?

A: I do not.

Q: Why not?

A: I don't have the time or the resources to do site inspections prior to permit issuance.

Q: Is there any other technology you use when you do your permit review?

A: I use GIS.
Q: What's GIS?
A: It's a spatially oriented mapping system that we have that the applicants provide us with the boundary of what the site is to be and we can overlay different layers onto that boundary to see if it has any CZMP issues.
Q: What kind of data layers can you overlay?
A: Things such as archeological sites, shellfish beds, other permits and --
Q: What about endangered species?
A: Endangered species, yes. There's a long list of layers that we can put on there.
Q: Do you have all of them memorized?
A: No, I don't.
Q: Okay. Permit is one of the layers. Is that something you would typically do when you do your GIS review?
A: Typically I would, yes.
Q: What other layers do you typically bring up when you do your GIS review?
A: The shellfish beds, the archeological sites, historic sites, endangered species, critical area, the receiving water body information that we have for monitoring stations.

Q: Do you know if you brought up any data layers when you did your GIS review in this case?
A: I know that I brought up data layers, yes.
Q: Do you know what GIS layers you did bring up?
A: Which ones I did bring up?
Q: Yeah.
A: I recall bringing up a few of them, but I don't remember all of them.
Q: Which ones do you recall?
A: I can recall bringing up archeological sites, endangered species, and the water body monitoring station data that we had.
Q: Okay. Did you bring up the permit layer when you did your review in this case?
A: I brought up -- it would have to be on at least permit layer to show the permit that I'm reviewing.
Q: Okay.
A: But there are multiple permit layers.
Q: How are the permit layers available?
A: They're by year, but there's some clumping within -- we group some years together.
Q: Are they also available by permitting type?
A: We have stormwater -- the only ones I bring up are stormwater permits.

Q: And those are separated by year?
A: By year. But again, some of the years are clustered together.
Q: Okay. Did you bring up any other permit layers other than the DTG layer for this one?
A: The only layer I remember bringing up was the current year's layer which showed the DTG Holding site.
Q: Did you bring up any other year layers?
A: Not that I recall.
Q: Do you generally bring up other year layers?
A: Yes.
Q: Why didn't you here?
A: I don't know.
Q: How is data entered into GIS?
A: We receive additional boundaries from the engineering consultants and that gets given over to our -- we have a GIS database manager and he loads it in to EFIS -- or not into EFIS, but into our GIS system. I'm not quite sure how it gets in there, but --
Q: Okay. Is that something prepared by someone else at DHEC? Or the data is entered in by someone else at DHEC?
A: Yes. I don't enter in that data into GIS.

Q: Okay. So you just look at whatever layers are available?
A: Right.
Q: Okay. Can you search by TMS number on the GIS?
A: You can search by TMS number for some -- well, at this time you can, yes. You can look up, pull up TMS numbers.
Q: Were there ever counties that you could not pull up GIS or TMS numbers for?
A: Both Jasper County and Colleton County.
Q: Did not have TMS numbers?
A: Did not have TMS numbers.
Q: When did Jasper County TMS numbers become available?
A: I believe it was August or September of '09. I'm sorry. Of 2010.
Q: This year?
A: It was -- yeah. It was August or September of '09. It was right before I got back from maternity leave.
Q: So last summer?
A: Yes, last summer.
Q: Okay. Was that after you did your review of the DTG application?
A: Yes.

Q: Okay. Are you trained to do title abstracts?
A: No.
Q: Do you ever do title abstracts?
A: No.
MR. WHITFIELD-CARGILE: I don't have any further questions, Your Honor.
THE COURT: Thank you very much. Your witness, Ms. Shahid.
MS. SHAHID: As a matter of housekeeping, Your Honor.
THE COURT: Yes.
MR. SHAHID: I referred to two exhibits earlier. One was with Ryan Smith, Exhibit 33. It was his affidavit. The other was with Keith Parrella, Exhibit 35. And the court reporter was kind enough to point out that I never offered them into evidence.
THE COURT: Yes. And I believe the Ryan Smith affidavit you were okay with, right, but not the Parrella?
MR. WHITFIELD-CARGILE: The Parrella is -- Judge, I think you -- I'm assuming -- yeah, I object on the same grounds I submitted -- we talked about earlier.
THE COURT: Right.

MR. WHITFIELD-CARGILE: Do you need me to restate those?

THE COURT: No. They're in the record. But anyway, they are admitted.

(Petitioner's Exhibit Numbers 33 and 35 were admitted into evidence.)

MS. SHAHID: And, in addition, I need to mark one more exhibit.

THE COURT: Okay.

MS. SHAHID: These are my previously filed and noticed deposition designations from Amanda Nodolf's deposition that I want to go ahead and put in the record. Given the hour, I'm not going to have them read like was done earlier with Mr. Smith.

THE COURT: All right.

MS. SHAHID: But I do want to go ahead and offer them in the record as Exhibit 36.

THE COURT: All right.

(Petitioner's Exhibit Number 36 was admitted into evidence.)

MR. WHITFIELD-CARGILE: And, Your Honor, I don't have any objection, but under the rules, I think I can designate testimony which ought to be included. And I did that. And -- oh, here it

is.

THE COURT: Okay.

MR. WHITFIELD-CARGILE: You try and go get organized and it makes you more --

THE COURT: Oh, I know. There's a lot of paper here.

MR. WHITFIELD-CARGILE: I've got just three sections of testimony. Do you want to just add it to yours?

MS. SHAHID: However you want to handle it is fine.

MR. WHITFIELD-CARGILE: Where is your designation?

THE COURT: Designated Number 36 I believe.

MS. SHAHID: I put it on that shelf.

MR. WHITFIELD-CARGILE: Do you want me to tell you what they are, Mary?

THE COURT: No, that's fine.

MR. WHITFIELD-CARGILE: I might have to -- we can do that after we're done with this witness if that's okay.

MS. NODOLF - CROSS-EXAMINATION BY MS. SHAHID:

Q: Good afternoon. Good evening. Are you doing okay? Do you need to break?

A: I'm fine.

Q: Okay. All right. You talked about things that you do in the course of your routine review.

Is it really routine to be reviewing a NOI and to see the letter E or the letter V? Is that something that happens routinely when you review NOIs?

A: Letters such as E or V appear not on every application, obviously, but they do appear on a fair amount of applications that we receive.

Q: Okay. And you were questioned earlier about whether or not the presence or absence of wetlands would have changed your review. I'm going to put on the screen here the no wetland letter that was submitted along with the NOI dated January 16, 2009. And it's Exhibit 12. Are you familiar with that letter?

A: Yes, I am.

Q: Okay. And do you agree that the Corps of Engineers concluded on January 16, 2009, that the property does not contain any wetland areas or other waters of the United States; that's in the 18.41-acre tract?

A: I agree that the letter states that, yes.

Q: Okay. And isn't it your practice to rely on the findings and conclusions of the Army Corps of Engineers to delete wetlands and to determine their jurisdictional nature?

A: To delete wetlands?
Q: To delineate wetlands. I'm sorry.
A: We do rely on the Corps of Engineers for delineations.
Q: Okay. And based on the fact that that letter was submitted with the NOI, you could safely conclude that there were no wetlands on the site, correct?
A: That's correct. Based on the information that was provided.
Q: You don't think the Corps got it wrong?
A: I'm not capable of making decisions on whether or not a delineation is correct or not. So I just take the information that's given to me, which the Corps' letter stated that there were no wetlands on the site.
Q: So Mr. Whitfield-Cargile's line of questions about wouldn't it have been material to your review to know if there were wetlands, in fact, we're dealing with an NOI where the final arbiter of wetlands or no wetlands, the Army Corps of Engineers, has said the tract has no wetlands, correct?
MR. WHITFIELD-CARGILE: I'm going to object to her characterization of final arbiter and I think

Spectre --

MS. SHAHID: I'll rephrase.

MR. WHITFIELD-CARGILE: The Supreme Court in Spectre and this court in Smith v. DHEC and Creekside Cottages says the Department is not bound by wetland delineations. Although it's fine to allow them, we're not bound by them. They're not final arbiters --

THE COURT: All right.

MS. SHAHID: I can rephrase.

THE COURT: Rephrase that, Ms. Shahid.

Q: The entity that you rely on has said that there's no wetlands and, therefore, you didn't question it?

A: The Army Corps said there were no wetlands. They're one of the agencies that we rely on for delineations.

Q: Okay.

A: We do also use our own wetlands staff.

Q: Isn't it, in fact, true that the concern was that there may have been wetlands allegedly unauthorized -- there may have been wetlands that were allegedly altered without authorization. That's the real facts you would have liked to have known, correct?

A: It's one of the facts that I would like to know.
Q: Yeah. You're not questioning that there -- that at the time that this letter was issued, January 16, 2009, that the 18.4-acre tract didn't include wetlands, are you?
A: I'm not -- again, I'm not qualified to make a decision on whether or not wetlands are on a site. So the Army Corps say there are no wetlands. And, at the time of my review, I took that as meaning that there were no wetlands on the site.
Q: Because you routinely rely on the Army Corps of Engineers to delineate wetlands, correct?
A: That's correct.
Q: If you didn't routinely rely on them, you'd have picked up the phone and called Jeff Thompson or somebody else in OCRM's office and asked them to go check the site, right?
A: If I had had reason to believe that there were, in fact, wetlands.
Q: Okay. Now, do you remember when you had your deposition taken?
A: Yes, I do.
Q: And we talked about the NOI, which is Exhibit

14. And I believe it was your testimony that administrative staff is in charge of reviewing the initial submittal to make sure it's complete, correct?

A: They do review -- they do review the NOI to see if it's complete.

Q: And, in this case, that was Christina Koczera?

A: Christine Koczera.

Q: Koczera, in Exhibit 16. And it was also your testimony when I took your deposition that she's in charge of making sure the blanks are filled in. Do you remember saying that?

A: She -- yes, I do remember saying that.

Q: And if there's blanks in the information, it's her job to get them filled in?

A: Yes. But also I should say in part I believe anybody who has an opportunity to review the NOI has the responsibility of making sure that the information is as accurate as they are able to know.

Q: Right. And you also reviewed the NOI, correct?

A: I did, yes.

Q: This is your letter, Exhibit 17, indicating that -- what does this indicate? That your review is complete and now EFIS is going to

review it or --

A: This letter indicates -- this letter indicates that the Coastal Zone Consistency Certification has been issued for the project and the NPDES permit review is going to start and that will be conducted by Ife.

Q: Okay. And Ife does his review after you conclude your review?

A: In this case he did, yes.

Q: Okay. So your review was concluded?

A: Uh-huh (affirmative response).

Q: All right. And you also looked at the NOI?

A: I did.

Q: And you saw that under site information, subheading 3, letter I, that there was a blank, correct?

A: Yes.

Q: Okay. And presumably Christina Koczera also saw that blank, correct?

A: Uh-huh (affirmative response).

Q: And neither of one of you thought it was relevant at that time to make further inquiry as to whether that should be left blank, correct?

A: I'm sorry. Can you repeat that question?

Q: Neither one of you thought it was relevant at that time to pick up the phone and make further inquiry as to whether or not that was -- that blank should be filled in, correct?

MR. WHITFIELD-CARGILE: I'm going to object to her asking her what Christine thought. She can certainly testify to what --

THE COURT: Is Christine planning to testify?

MR. WHITFIELD-CARGILE: No.

THE COURT: Okay.

Q: You saw the blank --

THE COURT: Sustained.

MS. SHAHID: I'll rephrase the question.

Q: You saw the blank and you didn't think it was relevant enough to pick up the phone and ask the engineer if more information could be provided?

A: I assumed that it was left blank because the answer to it was none.

Q: Okay. And Christina saw the blank and she didn't do anything about it, did she, because it was still blank when it came to you?

A: I don't know what Christine did or didn't do on the application.

Q: Well, you told me in your deposition she's in

charge of filling in the blanks, right?
A: Right. But I don't know what kind of correspondence she had in regards to the application.
Q: When it came to you it was still blank, right?
A: That's correct.
Q: And it came to you from Christine?
A: Uh-huh (affirmative response).
Q: Looking at documents that have been admitted into evidence, which are the EFIS reports as relate to Jasper Station, LLC, and looking particularly at 37c, which I'll put here. Do you have that in front of you?
MR. WHITFIELD-CARGILE: Mary, do you have -- I left my copy up here. Can I follow along with yours?
THE COURT: You can use mine if you need it.
Q: To your knowledge --
MR. WHITFIELD-CARGILE: Thanks, Judge.
Q: Do you see the updated September 23, 2008, Carrie A. Griffith?
A: Yes.
Q: Do you have any way of knowing with what information Carrie A. Griffith updated?
A: I don't know at this time what it was, but

there are some ways that we can find out at least some of the information that was updated.

Q: Are 37d, e or f indicative of ways to see what the update was?

A: No. You can tell what the update was sometimes by going, if you're on 37c, down at the very bottom towards the right-hand screen there's a button called history. And that history gives you a history of what had been entered into EFIS and what dates.

Q: Okay. Are any of our exhibits reflective of that history of what has been entered and what dates?

A: No.

Q: So even though we've got these update dates, Carrie A. Griffith, September 23, 2008, William Jr., William Goldrick, Jr., January 20, 2009, Exhibit 37e, we don't know what information they put in unless you click on the history button, and you didn't do that to bring it to court, did you?

A: I did not do that, no.

Q: Okay. So we have no way of knowing when the letter V and the violation that was entered to support that letter, or when the E and the

action that was entered to support that letter, if we don't -- if we can't tell from these updates, we have no way of knowing when that information came in looking at these exhibits, do we?

A: Yes. But I should clarify that the update on this particular screen of January -- I can't quite read that, 20, 2009 refers to what's seen on the screen below this line. The V and E are just tied to that property owner, so they appear on any screen where that property -- where Jasper Station would appear.

Q: But this isn't a history screen, is it?

A: No. But I'm just saying that that updated date refers to information provided below the yellow line. So the V and E were -- you'd have to go and actually click on the V or E to see what days they were created and if they have been updated.

Q: The yellow line that --

A: Yeah.

Q: So in the -- so looking at 37f, is this -- this is a screen that you might have reached had you had the information Jasper Station, LLC?

A: Correct.

Q: Okay. And if you reached that screen, you would see information land disturbance without a permit that might have triggered some other response on your part?
A: That's correct.
Q: You don't know when that information got entered, do you?
A: Based on this screen, I know that the initial enforcement action was initiated and put into EFIS on February 12, 2009, but I don't know what updates occurred on the -- on the screen since then.
Q: How do you know that the initial enforcement action got entered on February 12, because it's created?
A: Because it's created.
Q: And it's labeled?
A: Right.
Q: Okay. But you don't know when that notation land disturbance without permit got entered?
A: Not based on this screen, no.
Q: Okay. What screen would tell you that?
A: I know if you click on the history screen, you'll get more information on what was entered or changed at the time. I don't know if it

goes to the detail of what -- what descriptions were added into it.

Q: But you didn't bring a history screen?

A: We didn't bring a history screen.

Q: Okay. And Mr. Whitfield-Cargile asked you about another data overlay and, as I understand it from your deposition, the Department actually maintains two databases from which you can do your research, one being an Arcview database, and the other being an EFIS database, correct?

A: That's correct. And they contain some of the information, but also some very different information because the layers obviously aren't in EFIS.

Q: And the Arcview database was accessible to you when you did your review, correct?

A: That's correct.

Q: Okay. And I'm going to show you what's been put in evidence as Petitioner's Exhibit 8. And I need to put it back on the screen if I can. But let me ask you this before I put it back on the screen. And is that -- somebody on DHEC's staff has done a lot of writing on this obviously researching for this matter. Writing

on there aside, looking on the left-hand side of Exhibit 8, are those the layers?

A: Those are layers, yes.

Q: Okay. And so you can get into Arcview when you're doing your permit review just the same way you can get into EFIS, correct?

A: Correct.

Q: And you can look at these layers, right?

A: Yes.

Q: Okay. And the layers are listed here on Exhibit 8, and they include stormwater certifications, correct?

A: That's correct.

Q: And you pull up these various tracts of land. Am I right that those tracts of land come in because stormwater permit applicants have submitted digital boundaries?

A: That's correct, yes.

Q: And that's how you pull up those tracts. And if you look at this document which was created by somebody in DHEC, you can see, and I'm pointing to it, a little red notched area that's called Red Oaks Plaza Phase III. Is that in there -- are the boundaries in there because a digitized boundary showed up in

Arcview?

A: The boundaries here that are shown yes, they show up in Arcview.

Q: Okay. You also see an arrow that says Jasper Station tract clearing. Is that digitized boundary in there because it shows up in Arcview?

A: It is in there, yes.

Q: Okay. And the layer that was clicked on was SW-07-08; am I right?

A: That's one of the layers selected. This one shows that, I mean, all these layers --

Q: Oh, I see --

A: -- have been selected. So this screen is showing all permits that were issued between 1994 through 2000 and all the way up through 2009.

Q: Okay. But it's got a digitized boundary of the Jasper Station tract and a digitized boundary of the Malphus tract, correct?

A: It does, yes.

Q: And those digitized boundaries are in there because there's a requirement when permittees applying for stormwater permits that they provide as part of their submittal digitized

boundaries, right?
A: That's correct.
Q: For you to enter into Arcview. And it's so you can then research and cross-reference, correct?
A: Yes, that's correct.
Q: Okay. And you utilize Exhibit 8, you utilized the Arcview when you did your review here, correct?
A: I utilized Arcview, yes.
Q: Okay. And what was relevant to you the day that you did your review were -- well, tell me what was relevant to you the day you did your review?
A: When I did my review, I only selected the layer called SW-09, which only showed applications that had been received in the year 2009.
Q: Didn't you also do sort of a JAPC review?
A: Right. There are other layers on the left hand of the screen that are selected related to archeological sites and shellfish beds and whatnot that show up.
Q: But you could have done SW-04 or 06, SW-0103. You could have done all of these, right?
A: I could have, yes.
Q: And I believe it was your testimony at your

deposition that your normal practice is to click on the stormwater layer.

A: Right. Normally I select all the stormwater permit layers.

Q: And for whatever reason, you just didn't do that when you did this review?

A: That's correct.

Q: Okay. But had you clicked on the stormwater layer, a digitized boundary next to the Red Oaks boundary or in relation to the Red Oaks boundary, where Jasper Stataion would have appeared, correct?

A: That's correct.

Q: Then what further information can you get once you see those boundaries? What else can you get?

A: You get the boundary and you get the site name and, in some circumstances, you get the permit number.

Q: Okay. And that was available to you during the period of time you did your permit review, and yet you did not click on those layers, correct?

A: That's correct.

MS. SHAHID: And, Your Honor, if I could just confer with Mr. Glover for just a moment.

THE COURT: Certainly. Take your time.

MS. SHAHID: If we could just step out of the room for just a second.

THE COURT: Okay. Just be careful. Don't go outside the door because you might get locked out.

(Off the Record)

MS. SHAHID: I don't have any other questions.

THE COURT: Thank you. Mr. Whitfield-Cargile, you got anything else on redirect?

MR. WHITFIELD-CARGILE: Briefly. Redirect, Your Honor.

MS. NODOLF - REDIRECT EXAMINATION BY MR. WHITFIELD-CARGILE:

Q: Regarding wetlands, did you have any reason from the NOI, from the information you reviewed to disagree with the Corps delineation?

A: No.

Q: Regarding Section 3(i) of the application, is the DTG NOI the first time you've ever seen one with a blank on line three?

A: No.

Q: Is that something that's kind of frequent?

A: Most applications leave it blank.

Q: And do you take that to mean there aren't further -- other applications on that property?

A: That's correct.
Q: Why do you take it to mean that?
A: Because they didn't complete that line.
Q: Do you do further inquiry every time you see a blank on Section 3(i) on the NOI?
A: Inquiry to the applicant?
Q: Do you call that applicant and ask them if that's right; that there are no other applicants?
A: No.
Q: What do you do?
A: I just take it for the information -- I take it as meaning there are no other permits, and assuming that I myself don't notice any other permits, I assume it's correct.
Q: Okay. In looking at Section 3(i) or Section 3 of the NOI. I'm going to put it on the screen. Are there some questions in Section 3 that are yes or no questions that are follow ups?
A: Yes.
Q: Are several of the questions yes or no questions with follow ups?
A: Yes.
Q: Is 3(i) a yes or no question?
A: 3(i)?

Q: Yeah, list all state and federal permits --
A: No, I --
Q: -- or NOI approvals applied for? Is that a yes or no question?
A: No. It's requiring a list.
Q: So if none are listed, you take that -- well, what do you take that to mean?
A: I mean, to me it means there are none.
Q: Ms. Shahid was talking to you about Arcview related to that. Is that the same program that we were talking about that you referred to as GIS?
A: Yes.
Q: It's the same review?
A: Yes, the same review.
Q: Petitioner's Exhibit 8 was something y'all were looking at. Is that your handwriting on Petitioner's Exhibit 8?
A: No.
Q: Did you look at Petitioner's Exhibit 8 when you did your review of this case?
A: No, I didn't.
Q: And you say that's not your handwriting?
A: That's correct. It's not.
Q: Are the dates that are listed on Exhibit 8

after your review of the DTG NOI?
A: Some of the dates are, yes. Some of those dates are after my review.
Q: Okay. Do you know from your review of EFIS and the exhibits in 37a through i, can you tell whether you would have known about Jasper Station permits if Jasper Station had been listed on the NOI?
A: Yes.
Q: How can you tell that?
A: Because the permits had been entered in prior to my review. I believe they were all created --
Q: Is that 37d?
A: That's correct.
Q: Okay. And so if Jasper Station had been listed on 37b, or, I'm sorry, on the NOI as the landowner, would they have been listed as the landowner on 37b?
A: Yes, they would.
Q: When you brought up site info? I'm sorry.
A: Yes, they would have been listed as the landowner.
Q: On 37b?
A: Uh-huh (affirmative response).

Q: So if you clicked site info, you would have seen Jasper Station as the property owner?
A: It would have listed Jasper Station, yes.
Q: And if you'd clicked D, that would have brought up Jasper Station details?
A: Yes, it would have.
Q: And if you had clicked the details, would you have seen the permit -- the Jasper Station Company update?
A: Yes.
Q: Would you have clicked permits?
A: Yes, I would have clicked permits.
Q: Would you have seen 37d?
A: Yes.
Q: And all those permits that are listed were already entered by the time you did your review in March 2009?
A: Yes, they were all entered in 2006.
Q: And on screen 37c, which would have been the details button on the landowner, on the second screen you pulled up, would you have seen the red E?
A: I believe so, yes.
Q: And is that because it was created before you did your NOI review?

A: If I recall correctly, it was created in February of '09, which was a few weeks prior to my review.

Q: Is it common practice for people to create an entry and put no details in it?

A: No.

Q: When you put an entry in EFIS, do you put the details into it?

A: Would I, yes, I put details into my entries.

Q: Do you leave the description blank when you put information into EFIS?

A: I don't, no.

Q: Are you aware of any law that says you need to bring up every layer on GIS when you do your GIS review?

A: No.

Q: Are you aware of any law that requires applicants to submit accurate information in their applications?

A: Yes.

Q: Do you rely on the applicants to provide accurate information?

A: Yes, I do.

MR. WHITFIELD-CARGILE: I don't have any more questions, Your Honor.

THE COURT: Thank you Ms. Nodolf, you may be excused. Okay. Where are we as of the end of the day? How many witnesses do you have left, Mr. Whitfield-Cargile?

(Off the Record)

(There being nothing further, the hearing was adjourned at 5:45 p.m.)

From:	Shahid, Mary [MShahid@mcnair.net]
Sent:	Friday, July 16, 2010 5:29:00 PM
To:	Smith, Ryan, Bohannon, Mitchell
Subject:	I want to assure you that there is no sentiment with my clients that you are at fault in any way shape or form on the jasper station thing
Importance:	Normal
Attachments:	image001.png, image003.jpg

Dan Lynch called – said Andy Smith said you were thinking Jasper Station was planning to sue you. Absolutely not – they knew they were taking a risk. You did nothing wrong, no basis to sue. You did everything right – you got DTG a permit, and I think I can defend it. So, I just want to put that concern to bed if it is a real concern – there is no sentiment on the part of my clients that blames T & H for any part of this messy, litigious situation. T & H has served Jasper Station Associates very well – and has done everything that they have asked and I have asked. If that is a real concern on your part – please don't let it be.....

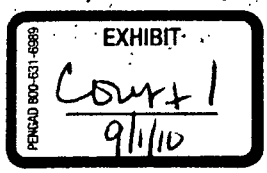
MCNAIR ATTORNEYS

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Charleston Office 100 Calhoun Street | Suite 400 | Charleston, SC 29401
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Mailing Post Office Box 1431 | Charleston, SC 29402
VCard | **Bio URL** | **Web site**

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From: Shahid, Mary [MShahid@mcnair.net]
Sent: Tuesday, July 20, 2010 1:34:00 PM
To: Smith, Ryan
Subject: RE: Update - Jasper Station
Importance: Normal
Attachments: image001.png, image004.jpg, image003.jpg

I'm sorry- then Dan called me and told me what Bob did – I was flabbergasted (is that a word?) I told Dan I wouldn't have any credibility with you and that Dan needed to call you and see where you were on all of this – I wouldn't blame you if you washed your hands of it – I told Dan that Bob yelling at you is like Bob yelling at me – Bob wouldn't be where he is without your work and my work – you may not think that Bob is in a good place but he still has a fighting chance of using some of that 30 acres of wetlands and if we had done nothing he would have no use of that property. Thomas and Hutton is the reason that DTG got a permit – had things been done any differently DTG wouldn't have a permit.

I am going to call you and I'm sorry for the delay – I have a deadline this afternoon that I'm trying to meet (and no secretary - she is on vacation.)

I'm not going to schedule anything or make any commitments without talking to you first – and I'll call you this afternoon – as soon as I finish what I'm working on.

MCNAIR
ATTORNEYS

Mary A. Shahid
Shareholder
mshahid@mcnair.net | 843 973 6853 Direct

McNair Law Firm, P.A.
Charleston Office 100 Calhoun Street | Suite 400 | Charleston, SC 29401
843 723 7831 Main | 843 722 3227 Fax
Mailing Post Office Box 1431 | Charleston, SC 29402
VCard | Bio URL | Web site

From: Smith, Ryan [mailto:smith.r@thomasandhutton.com]
Sent: Tuesday, July 20, 2010 1:30 PM
To: Shahid, Mary
Subject: RE: Update - Jasper Station

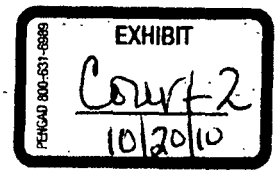
Mary,
I left you a message so we could discuss your request below. Please call me at your convenience.

Ryan M. Smith, P.E., LEED AP
Thomas & Hutton
www.thomasandhutton.com
smith.r@thomasandhutton.com
(P) 912-721-4196 (F) 912-721-4296

From: Shahid, Mary [mailto:MShahid@mcnair.net]
Sent: Friday, July 16, 2010 4:46 PM
To: Bohannon, Mitchell; Smith, Ryan
Cc: 'Andy Smith'; 'Kentuckybg@aol.com'; 'Dan Lynch'; Riley, Leslie
Subject: Update - Jasper Station
Importance: High

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

DTG Holdings, LLC, and Jasper Station Associates, LLC, Petitioners, v. South Carolina Department of Health & Environmental Control, Respondent.	)	Docket No. 10-ALJ-07-0217-CC **STIPULATION**



IT IS HEREBY STIPULATED between the parties herein as follows:

1. The Respondent's staff that was responsible for the review of the Jasper Station Associates, LLC, NOI, and for inspections and enforcement matters arising from actions taken on the Jasper Station tract did not have any participation in the review of the DTG Holdings, LLC, NOI. The staff that reviewed the DTG Holdings, LLC, NOI, were entirely different individuals than the staff that reviewed the Jasper Station Associates, LLC, NOI, and performed the inspection of construction activities at the Jasper Station tract.

2. Respondent's employee Jeff Thompson inspected the acreage that comprises the 18.4 acre parcel previously under contract by DTG Holdings, LLC, and concluded that there were wetlands on the 18.4 acre parcel including within the 6 acre portion of the tract where Petitioners conducted clearing, mucking and filling activities. Mr. Thompson's observations and conclusions regarding the presence of wetlands were based on the presence of hydric soils as determined by excavating many soil borings, identification of a predominance of hydrophytic vegetation, and evidence of hydrology using hydrologic indicators including buttressed trunk trees, water staining on leaves, and the fact that the entire tract was inundated from 3" up to over

2' at the time of his last inspection. Mr. Thompson used the three parameter approach used by the U.S. Army Corps of Engineers for identifying wetlands. Mr. Thompson found all three criteria on site. Mr. Thompson concluded that soil profiles indicated very little actual fill on the site, mostly only an inch or two. Mr. Thompson's findings are set forth in a report he prepared, DHEC Ex. 42, which is incorporated into these stipulations and admitted into the record. Mr. Thompson also took photographs which support his conclusion that there are still wetlands on the site. Photographs dated 7/28/2009 are attached as DHEC Exhibits 43a-43f and photographs dated 12/17/2009 are attached as DHEC Exhibits 44a-44r, and incorporated into this stipulation and admitted into the record.

3. OCRM requires that an applicant for permit coverage must submit a "Corps wetland verification letter and corresponding signed, sealed and dated wetland plat." (Checklist for Design Professionals.) The DTG NOI was accompanied by a letter from the Corps of Engineers verifying on January 16, 2009, that there were no wetlands on the 18.41 acre tract. OCRM staff notified the Corps of Mr. Thompson's findings. To date the Corps has taken no action related to its January 19, 2009 verification letter which is valid, on its face, for five years from the date of the letter "unless new information warrants revision of the delineation before the expiration date."

4. Mr. Thompson's findings were not referenced as a basis for termination in the Respondent's notice of termination or termination of permit coverage.

5. Respondent's employee Shannon Hicks, manager of the stormwater permitting section at Respondent's Ocean and Coastal Resource Management office, is familiar with the Jasper Station file. Based on her familiarity with the file and her training of staff, Ms. Hicks believes that if Amanda Nodolf had looked at the Jasper Station file, Ms. Nodolf would have

discovered the underlying dispute between the Department and Jasper Station, LLC, related to whether Jasper Station, LLC, had authorization to impact wetlands on the Jasper Station tract. The Department's position in this underlying dispute is that Jasper Station, LLC, did not have authorization to impact wetlands on the Jasper Station tract.

6. Respondent's staff does not prepare abstracts of title, perform title examinations, or research record title when reviewing NOI's. Respondent's staff presumes that the information provided on the NOI as to the identity of the record owner of the property that is the subject of the NOI is accurate, and relies on the representations of the applicant as to the correct identity of the record owner.

7. Respondent's staff is not aware of any other permits that were issued based on an application which contained misrepresentations. When possible violations are brought to staff's attention, they are referred to enforcement staff to determine whether administrative action is warranted.

8. Petitioners served discovery requests upon Respondent wherein Petitioners sought to inspect all stormwater permit files over a six-month period for the eight coastal counties. After the Court granted Petitioners' motion to compel, Respondent produced 264 files to Petitioners' counsel for inspection. Of these 264 files, Petitioners' counsel requested copies of Notice of Intent from 123 files.

AND IT IS SO STIPULATED this 20 day of October, 2010.

Mary D. Shahid

Mary D. Shahid, Esq.
McNair Law Firm, P.A.
P. O. Box 1431
Charleston, SC 29402

Attorneys for Petitioner

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50 PARK OF COMMERCE WAY
POST OFFICE BOX 2727
SAVANNAH, GEORGIA 31402-2727
TELEPHONE (912)234-5300
FAX (912)234-2950

July 25, 2006

Ms. Tara Maddock
South Carolina Department of Health and Environmental Control
Office of Ocean and Coastal Resource Management
1362 McMillan Avenue, Suite 400
Charleston, South Carolina 29405

Re: Jasper Station Tract Clearing
18767.520 A

Dear Tara:

On behalf of our client, Jasper Station, L.L.C., please find attached the following information regarding the land disturbance permit for the above referenced project:

1. Application for land disturbing activities
2. Project Narrative
3. Location Map
4. Soils Map
5. FEMA Flood Zone Map
6. Wetlands and Boundary Plat
7. Letter of approved jurisdictional determination for wetlands (Army COE)
8. Two (2) copies of Clearing and Sedimentation and Erosion Control Plans

Jasper Station, L.L.C. is proposing predevelopment site work for the Jasper Station Tract. This work shall include clearing of wooded areas on the property and mucking and filling of isolated, non-jurisdictional wetlands. As shown in the plans, the required erosion and sedimentation control measures will be implemented.

Thanks,

THOMAS & HUTTON ENGINEERING CO.

Thomas G. Smith (Gabe)

TGS/kts
Enclosure

EXHIBIT
3.

STANDARD APPLICATION FORM FOR LAND DISTURBING ACTIVITIES STORMWATER PERMITTING

South Carolina Department of Health and Environmental Control

SECTION 1 - Administrative Information
(To Be Completed By All Applicants)

Date: JULY 11, 2006

1. Facility or project name: JASPER STATION TRACT CLEARING
   County: Jasper City/Town: N/A
   Location (also shown on location map): INTERSECTION OF SC HWY 170 AND JASPER STATION ROAD
   Latitude: 32D 19' 58.26" Longitude: 80D 56' 14.97"
   Tax map #: 80-00-03-065 USGS Quad Name: JASPER

2. Nearest receiving water body: OKATIE RIVER
   Distance to nearest receiving water body: 5880 FEET
   Ultimate receiving water body: Atlantic Ocean

3. Are there any wetlands located on the property? YES If yes, have they been delineated? YES
   Are any federally jurisdictional wetlands being impacted by this project? NO If yes, has a Corps permit been issued? N/A
   Corps permit #: _____ Are any federally non-jurisdictional (state) wetlands being impacted by this project? YES
   What is the total acreage of federally jurisdictional and state wetland impacts? N/A (Juris.) 32.29 (Non-juris.)
   On an 8 ½" X 11" copy of a site plan indicate the wetland impacts and the proposed mitigation.

4. Are there any existing flooding problems in the downstream watershed? No

5. Property owner of record: Jasper Station, LLC
   Address: 27 Sweet Olive Drive, Beaufort, South Carolina 29907
   Phone (day): (843) 263-9546 (night): _____ (fax): (843) 521-0924

6. Person financially responsible for the land disturbing activity: SAME AS ABOVE
   (If different than above)
   Address: _____
   Phone (day): _____ (night): _____ (fax): _____

7. Agent or day-to-day contact (if applicable): _____
   Address: _____
   Phone (day): _____ (night): _____ (fax): _____

8. Plan preparer, engineer, or technical representative: Nicholas D. Stanley, P.E.
   Address: 50 Park of Commerce Way, Savannah, GA 31405
   Phone (day): 912 234-5300 (night): 912 234-5300 (fax): 912 234-2950

9. Contractor or operator (if known): _____
   Address: _____
   Phone (day): _____ (night): _____ (fax): _____

10. Size, total (acres): 88.9 AC. Surface area of land disturbance (acres): 87.6 AC.

11. Start date: 9/2006 Completion date: 3/2007

SECTION 2A - For Projects That Disturb Less Than One (1) Acre Which Are Not Part of a Larger Common Plan for Development or Sale and Which Are Not Located Within ½ Mile of a Receiving Waterbody in the Coastal Counties

12. Description of control plan to be used during construction. (Must also be shown on plan sheets or sketch drawing):

    N/A

    This plan does not have to be prepared by a professional engineer, or a surveyor, or a landscape architect and there is NO STATE REVIEW FEE associated with this type of project. On a case-by-case basis, an NPDES permit with a $125 fee may be required.

13. For this form to be complete, the applicant must sign item 23.

DHEC 3308 (06/2003)

SECTION 2B - For Projects That Disturb One (1) Acre or More But Less Than or Equal to Two (2) Acres Which Are Not Part of a Larger Common Plan for Development or Sale or Projects That Are Located Within ½ Mile of a Receiving Waterbody in the Coastal Counties (See Special Requirements for Coastal Zone Projects on Instructions Sheet)

14. Description of control plan to be used during construction. (Must also be shown on plan sheets or sketch drawing):
N/A

This plan must be prepared by a professional engineer, tier b land surveyor, or a landscape architect

15. Fee: $125 NPDES General Permit coverage fee applies, exempt from state review fee.

16. SIC code: _____ Is the site located on Indian lands? _____

17. For this form to be complete, the applicant must sign items 23 and 24 and the plan preparer must sign item 25.

SECTION 2C - For Projects Disturbing More Than Two (2) Acres and/or Projects That Are a Part of a Larger Common Plan for Development or Sale

18. Is this part of a larger common plan for development or sale? NO
If yes, what is the state permit number for the previous approval? N/A
What is the NPDES permit coverage number? N/A
Has a Notice of Termination (NOT) been submitted for the NPDES permit coverage? N/A

19. The stormwater management and sediment and erosion control plan for projects of this size must be prepared by a professional engineer, tier b land surveyor, or a landscape architect.

20. SIC code: 1522 Is the site located on Indian lands? NO

21. Type of project and fees (please circle the type of activity):
a. Federal - State - Local - School (exempt from State fees, $125 NPDES fee applies): _____
b. Industrial - Commercial - Residential - Part of a larger common plan for development or sale ($100 per disturbed acre State fee (max. $2000)] plus $125 NPDES fee. (Maximum total for any project is $2125): $2,125

22. For this form to be complete, the applicant must sign items 23 and 24 and the plan preparer must sign item 25.

SECTION 3 - Signatures and Certifications

23. I hereby certify that all land disturbing construction and associated activity pertaining to this site shall be accomplished pursuant to and in keeping with the terms and conditions of the approved plans. I also certify that a responsible person will be assigned to the project for day-to-day control. I hereby grant authorization to the Department of Health and Environmental Control and/or the local implementing agency the right of access to the site at all times for the purpose of on site inspections during the course of construction and to perform maintenance inspections following the completion of the land disturbing activity.

Jasper Station Holdings, LLC — D.M. Lynch — not signing — personal

Printed Name
Owner/Person Financially Responsible

Signature
Owner/Person Financially Responsible

24. I certify under penalty of law that I have personally examined and am familiar with the information submitted in this application and all attachments and that, based on my inquiry of those persons immediately responsible for obtaining the information contained in the application, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

D.M. Lynch

Printed Name
Owner/Person Financially Responsible

Signature
Owner/Person Financially Responsible

25. Designer Certification - One copy of the plans, all specifications and supporting calculations, forms, and reports are herewith submitted and made a part of this application. I have placed my signature and seal on the design documents submitted signifying that I accept responsibility for the design of the system. Further, I certify to the best of my knowledge and belief that the design is consistent with the requirements of Title 48, Chapter 14 of the Code of Laws of SC, 1976 as amended, and pursuant to Regulation 72-300. (Five sets of plans are required for final approval.)

Signature / NICHOLAS D. STANLEY, P.E.

PE#19867
S. C. Registration Number

Check appropriate registration: Engineer X Tier B Land Surveyor _____ Landscape Architect _____

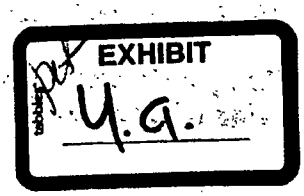
CHAPTER 61.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

(Statutory Authority: 1976 Code Sections 1-23-10, 1-23-110, 1-23-120(I), 6-19-40, 13-7-10, 13-7-40, 13-7-45 et seq., 13-7-110 et seq., 20-1-350, 20-3-230, 38-25-20, 39-23-40, 40-25-30(9), 44-1-20, 44-1-140, 44-5-120, 44-7-130, 44-7-250, 44-7-260(A), 44-7-430, 44-7-500 through 44-7-590, 44-29-40, 44-41-70(b), 44-53-280(a), 44-53-950, 44-55-10 to 44-55-60, 44-56-30, 44-61-30, 44-63-20, 44-69-10 et seq., 44-87-10, 44-96-80, 44-96-290, 44-96-300, 44-96-320, 44-96-340, 44-96-360, 44-96-380, 44-96-400, 44-96-450, 44-96-460, 48-1-10 et seq., 48-1-30 through 48-1-60 et seq., 48-2-10, 59-111-580)

61 9. WATER POLLUTION CONTROL PERMITS.

(Statutory Authority: Sections 48 1 10 et seq. and Sections 48 14 10 et seq.)



(h)(1) Change the operator grade or other operator requirements, including revision to frequency of operator visits.
(2)(i) Change a sampling date stated in the permit or add a sampling date,
(ii) Add specific sample locations if unclear in the issued permit,
(iii) Reduce sampling frequency after some period of time, if specifically allowed in an issued permit.
(3) Add the treatment system reliability classification.
(4) Require submittal of closure plans.
(5) Change page numbers of the issued permit.

[redacted]ts.
(a) The following are causes for terminating a permit during its term, or for denying a permit renewal application:
(1) Noncompliance by the permittee with any condition of the permit:
(2) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;
(3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or
(4)(i) A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit (for example, plant closure or termination of discharge by connection to a POTW).
(ii) Cessation of substantially all manufacturing operations, which are a basis for effluent limits or which contribute to a discharge, for a period of 180 days or longer.
(5) A permittee with a permit which requires connection to a regional sewer system or other treatment facilities under the water quality management plan under section 208 of the CWA is ineligible for reissuance of a permit once notified by the Department that the regional sewer system is operational.
(b) The Department shall follow the applicable procedures in R.61 9.124 in terminating any NPDES permit under this section, except that if the entire discharge is permanently terminated by elimination of the flow or by connection to a POTW (but not by land application or disposal into a well), the Department may terminate the permit by notice to the permittee. Termination by notice shall be effective 30 days after notice is sent, unless the permittee objects within that time. If the permittee objects during that period, the Department shall follow R.61 9.124 procedures for termination. Expedited permit termination procedures are not available to permittees that are subject to pending State and/or Federal enforcement actions including citizen suits brought under State or Federal law. If requesting expedited permit termination procedures, a permittee must certify that it is not subject to any pending State or Federal enforcement actions including citizen suits brought under State or Federal law. State authorized NPDES programs are not required to use 40 CFR 22 procedures for NPDES permit terminations.

APPENDIX A
NPDES Primary Industry Categories

Any permit issued after June 30, 1981 to dischargers in the following categories shall include effluent limitations and a compliance schedule to meet the requirements of section 301(b)(2)(A),

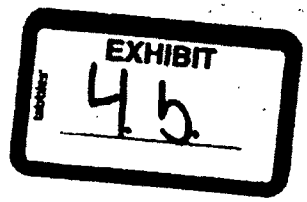
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61 9. WATER POLLUTION CONTROL PERMITS.

(Statutory Authority: Sections 48 1 10 et seq. and Sections 48 14 10 et seq.)



designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly involved in gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

122.27. Silvicultural activities.
(a) Permit requirement. Silvicultural point sources, as defined in this section, are point sources subject to the NPDES permit program.
(b) Definitions.
(1) "Silvicultural point source" means any discernible, confined and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities which are operated in connection with silvicultural activities and from which pollutants are discharged into waters of the State. The term does not include non point source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff. However, some of these activities (such as stream crossing for roads) may involve point source discharges of dredged or fill material which may require a CWA section 404 permit (See 33 CFR 209.120 and Part 233).
(2) "Rock crushing and gravel washing facilities" means facilities which process crushed and broken stone, gravel, and riprap (See 40 CFR Part 436, Subpart B, including the effluent limitations guidelines).
(3) "Log sorting and log storage facilities" means facilities whose discharges result from the holding of unprocessed wood, for example, logs or roundwood with bark or after removal of bark held in self contained bodies of water (mill ponds or log ponds) or stored on land where water is applied intentionally on the logs (wet decking). (See 40 CFR Part 429, Subpart I, including the effluent limitations guidelines).

[redacted].
(a) Coverage. The Department may issue a general permit in accordance with the following:
(1) Area. The general permit shall be written to cover one or more categories or subcategories of discharges or sludge use or disposal practices or facilities described in the permit under paragraph (a)(2)(ii) of this section, except those covered by individual permits, within a geographic area. The area shall correspond to existing geographic or political boundaries such as:
(i) Designated planning areas under sections 208 and 303 of CWA:
(ii) Sewer districts or sewer authorities;
(iii) City, county, or State political boundaries;
(iv) State highway systems;
(v) Standard metropolitan statistical areas as defined by the Office of Management and Budget;
(vi) Urbanized areas as designated by the Bureau of the Census according to criteria in 30 FR 15202 (May 1, 1974); or
(vii) Any other appropriate division or combination of boundaries.
(viii) Watershed boundaries.

(1) Effluent limitations established by the EPA pursuant to Sections 301, 302, 303, 306, 307, 308, 318, and 405 of the Federal CWA;
(2) Criteria and standards for Best Management practices established by EPA pursuant to Section 304(e) of the Federal CWA;
(3) Notwithstanding the above, more stringent effluent limitations may be required as deemed necessary by the Department (i) to meet any other existing federal laws or regulations, or (ii) to insure compliance with any applicable State water quality standards, effluent limitations, or treatment standards; and
(4) Calculations and specifications of effluent limits and standards shall be made in accordance with the provisions of section 122.45.
(d) Submittals and Signatory Requirements.
(1) An NOI shall be on forms as may be prescribed and furnished from time to time by the Department. A NOI shall be accompanied by all pertinent information as the Department may require in order to establish effluent limitations in accordance with this regulation, including, but not limited to, complete engineering reports, schedule of progress, plans, specifications, maps, measurements, quantitative and qualitative determinations, records, and all related materials.
(2) Engineering reports, plans, specifications, and other material submitted to the Department's NPDES or State permitting (See R.61 9.505 for Land Application permit and State permit requirements) divisions shall be signed by a Professional Engineer registered in State of South Carolina and competent in the field of sewage and industrial waste treatment.
(3) Material submitted shall be complete and accurate.
(4) Any NOI form submitted to the Department shall be signed in accordance with this Regulation.
(5) All other reports or requests for information required by the Department shall be signed by a person designated in section 122.22 or a duly authorized representative of such person, if:
(i) The representative so authorized is responsible for the overall operation of the facility from which the discharge originates, e.g., a plant manager, superintendent or person of equivalent responsibility;
(ii) The authorization is made in writing by the person designated under section 122.22; and
(iii) The written authorization is submitted to the Department.
(6) Any changes in the written authorization submitted to the Department which occur after the issuance of a permit shall be reported to the Department by submitting a copy of a new written authorization that meets the requirements of (5) above.
(7) Any person signing any document under (d) above shall make the following certification: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in the attached document; and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."
(e) Other Requirements.
(1) Notice and Public Participation. Public notice and participation requirements shall be in accordance with this Regulation.
(2) Terms and Conditions of Permits. General permits issued shall be subject to the terms and conditions contained in this Regulation.
(3) Monitoring, Recording and Reporting Requirements. Monitoring, recording, and reporting requirements shall be in accordance with the permit and this Regulation.

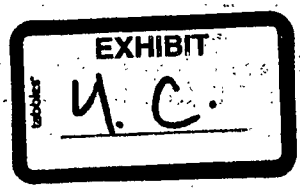
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DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

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61 9. WATER POLLUTION CONTROL PERMITS.

(Statutory Authority: Sections 48 1 10 et seq. and Sections 48 14 10 et seq.)



(1) The permittee has submitted a timely application under section 122.21 which is a complete (under section 122.21(e)) application for a new permit; and
(2) The Department, through no fault of the permittee does not issue a new permit with an effective date under R.61 9.124.15 on or before the expiration date of the previous permit (for example, when issuance is impracticable due to time or resource constraints); or
(3) The permittee has submitted a timely application under section 122.21 which is a complete application for a new permit and makes a timely appeal of the new permit.
(b) Effect. Permits continued under this section remain fully effective and enforceable.
(c) Enforcement. When the permittee is not in compliance with the conditions of the expiring or expired permit the Department may choose to do any or all of the following:
(1) Initiate enforcement action based upon the permit which has been continued;
(2) Issue a notice of intent to deny the new permit under section 124.6. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;
(3) Issue a new permit under R.61 9.124 with appropriate conditions; or
(4) Take other actions authorized by these regulations.

122.7. Confidentiality of information.
(a) [Reserved]
(b) Claims of confidentiality for the following information will be denied:
(1) The name and address of any permit applicant or permittee;
(2) Permit applications, permits, and effluent data.
(c) Information required by NPDES application forms provided by the Department under section 122.21 may not be claimed confidential. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

PART B Permit Application and Special NPDES Program Requirements

[redacted]

(a) Duty to apply.
(1) Any person who discharges or proposes to discharge pollutants or who owns or operates a "sludge only facility" whose sewage sludge use or disposal practice is regulated by R.61 9.503 and who does not have an effective permit, except persons covered by general permits under section 122.28, excluded under section 122.3, or a user of a privately owned treatment works, unless the Department requires otherwise under section 122.44(m), must submit a complete application to the Department in accordance with this section and R.61 9.124. All concentrated animal feeding operations have a duty to seek coverage under an NPDES permit, as described in section 122.23(d).
(2) Applicants for State issued permits must use State forms which must require at a minimum the information listed in the appropriate paragraphs of this section.
(3) A person discharging or proposing to discharge wastes into the waters of the State shall promptly make application for and obtain a valid NPDES Permit and, if required, a valid State Construction Permit.
(b) [Reserved]
(c) Time to apply.

(2) All other permittees with currently effective permits shall submit a new application 180 days before the existing permit expires, except that the Department may grant permission to submit an application later than the deadline for submission otherwise applicable, but no later than the permit expiration date; and

(3) [Reserved]

(e) Completeness.

(1) The Department shall not issue a permit before receiving a complete application for a permit except for NPDES general permits. An application for a permit is complete when the Department receives an application form and any supplemental information which are completed to its satisfaction. The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity.

(2) A permit application shall not be considered complete if a permitting authority has waived application requirements under paragraphs (j) or (q) of this section and EPA has disapproved the waiver application. If a waiver request has been submitted to EPA more than 210 days prior to permit expiration and EPA has not disapproved the waiver application 181 days prior to permit expiration, the permit application lacking the information subject to the waiver application shall be considered complete.

(3) The Department, at its discretion, or upon request of the Regional Administrator, may request of an applicant any additional information deemed necessary to complete or correct deficiencies in a Refuse Act permit application, before processing the application or issuing or denying the issuance of a permit.

(4) The Department may take enforcement action as prescribed by the State law or this regulation against any person who fails to file a complete application, if deficiencies are not corrected or complete information is not supplied within sixty (60) days to the Department following its request.

(f) Information requirements. All applicants for NPDES permits, other than POTW and other TWTDS, must provide the following information to the Department, using the application form provided by the Department. Additional information required of applicants is set forth in paragraphs (g) through (k) of this section.

(1) The activities conducted by the applicant which require it to obtain an NPDES permit.

(2) Name, mailing address, and location of the facility for which the application is submitted.

(3) Up to four SIC codes which best reflect the principal products or services provided by the facility.

(4) The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public, or other entity.

(5) Whether the facility is located on Indian lands.

(6) A listing of all permits or construction approvals received or applied for under any of the following programs:

(i) Hazardous Waste Management program under RCRA.

(ii) UIC program under SDWA.

(iii) NPDES program under CWA.

(iv) Prevention of Significant Deterioration (PSD) program under the Clean Air Act.

(v) Nonattainment program under the Clean Air Act.

(vi) National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act.

(vii) Ocean dumping permits under the Marine Protection Research and Sanctuaries Act.
(viii) Dredge or fill permits under section 404 of CWA.
(ix) Other relevant environmental permits, including State permits.
(7) A topographic map (or other map if a topographic map is unavailable) extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area.
(8) A brief description of the nature of the business, activity, or type project.
(g) Application requirements for existing manufacturing, commercial, mining, and silvicultural dischargers. Existing manufacturing, commercial, mining, and silvicultural dischargers applying for NPDES permits, except for those facilities subject to the requirements of section 122.21(h), shall provide the following information to the Department, using application forms provided by the Department.
(1) Outfall location. The latitude and longitude to the nearest 15 seconds and the name of the receiving water.
(2) Line Drawing. A line drawing of the water flow through the facility with a water balance, showing operations contributing wastewater to the effluent and treatment units. Similar processes, operations, or production areas may be indicated as a single unit, labeled to correspond to the more detailed identification under paragraph (g)(3) of this section. The water balance must show approximate average flows at intake and discharge points and between units, including treatment units. If a water balance cannot be determined (for example, for certain mining activities), the applicant may provide instead a pictorial description of the nature and amount of any sources of water and any collection and treatment measures.
(3) Average flows and treatment. A narrative identification of each type of process, operation, or production area which contributes wastewater to the effluent for each outfall, including process wastewater, cooling water, and stormwater runoff; the average flow which each process contributes; and a description of the treatment the wastewater receives, including the ultimate disposal of any solid or fluid wastes other than by discharge. Processes, operations or production areas may be described in general terms (for example, "dye making reactor", "distillation tower." For a privately owned treatment works, this information shall include the identity of each user of the treatment works. The average flow of point sources composed of storm water may be estimated. The basis for the rainfall event and the method of estimation must be indicated.
(4) Intermittent flows. If any of the discharges described in paragraph (g)(3) of this section are intermittent or seasonal, a description of the frequency, duration and flow rate of each discharge occurrence (except for stormwater runoff, spillage or leaks).
(5) Maximum production. If an effluent guideline promulgated under section 304 of CWA applies to the applicant and is expressed in terms of production (or other measure of operation), a reasonable measure of the applicant's actual production reported in the units used in the applicable effluent guideline. The reported measure must reflect the actual production of the facility as required by section 122.45(b)(2).
(6) Improvements. If the applicant is subject to any present requirements or compliance schedules for construction, upgrading or operation of waste treatment equipment, an identification of the abatement requirement, a description of the abatement project, and a listing of the required and projected final compliance dates.

(b) General Tributary Characteristics (check all that apply):
Tributary is: ☐ Natural
☐ Artificial (man-made). Explain:
☐ Manipulated (man-altered). Explain:

Tributary properties with respect to top of bank (estimate)
Average width: feet
Average depth: feet
Average side slopes: Pick List.

Primary tributary substrate composition (check all that apply):
☐ Silts ☐ Sands ☐ Concrete
☐ Cobbles ☐ Gravel ☐ Muck
☐ Bedrock ☐ Vegetation. Type/% cover.
☐ Other. Explain

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain:
Presence of run/riffle/pool complexes. Explain:
Tributary geometry: Pick List
Tributary gradient (approximate average slope): %.

(c) Flow:
Tributary provides for: Pick List
Estimate average number of flow events in review area/year: Pick List
Describe flow regime:
Other information on duration and volume:

Surface flow is: Pick List. Characteristics:

Subsurface flow: Pick List. Explain findings.
☐ Dye (or other) test performed:

Tributary has (check all that apply):
☐ Bed and banks
☐ OHWM[6] (check all indicators that apply):
☐ clear, natural line impressed on the bank
☐ changes in the character of soil
☐ shelving
☐ vegetation matted down, bent, or absent
☐ leaf litter disturbed or washed away
☐ sediment deposition
☐ water staining
☐ other (list)
☐ the presence of litter and debris
☐ destruction of terrestrial vegetation
☐ the presence of wrack line
☐ sediment sorting
☐ scour
☐ multiple observed or predicted flow events
☐ abrupt change in plant community
☐ Discontinuous OHWM.[7] Explain:

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):
☐ High Tide Line indicated by:
☐ oil or scum line along shore objects
☐ fine shell or debris deposits (foreshore)
☐ physical markings/characteristics
☐ tidal gauges
☐ other (list)
☐ Mean High Water Mark indicated by:
☐ survey to available datum;
☐ physical markings;
☐ vegetation lines/changes in vegetation types.

(iii) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics; etc.).
Explain:
Identify specific pollutants, if known:

[6] [illegible] not discretionary to the OHWM does not necessarily waive jurisdiction (e.g., where the stream temporarily flows underground, or the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

(ii) Biological Characteristics. Channel supports (check all that apply):
- [ ] Riparian corridor. Characteristics (type, average width)
- [ ] Wetland fringe. Characteristics
- [ ] Habitat for
  - [ ] Federally Listed species. Explain findings.
  - [ ] Fish/spawn areas. Explain findings.
  - [ ] Other environmentally-sensitive species. Explain findings
  - [ ] Aquatic/wildlife diversity. Explain findings

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: acres

Wetland type. Explain.

Wetland quality. Explain:

Project wetlands cross or serve as state boundaries. Explain

(b) General Flow Relationship with Non-TNW:

Flow is: Pick List. Explain

Surface flow is: Pick List

Characteristics:

Subsurface flow: Pick List. Explain findings.

- [ ] Dye (or other) test performed

(c) Wetland Adjacency Determination with Non-TNW:

- [ ] Directly abutting
- [ ] Not directly abutting
  - [ ] Discrete wetland hydrologic connection. Explain:
  - [ ] Ecological connection. Explain:
  - [ ] Separated by berm/barrier. Explain

(d) Proximity (Relationship) to TNW

Project wetlands are Pick List river miles from TNW.

Project waters are Pick List aerial (straight) miles from TNW.

Flow is from: Pick List.

Estimate approximate location of wetland as within the Pick List floodplain.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general WET characteristics, etc.). Explain:

Identify specific pollutants, if known:

(iii) Biological Characteristics. Wetland supports (check all that apply):

- [ ] Riparian buffer. Characteristics (type, average width):
- [ ] Vegetation type/percent cover. Explain
- [ ] Habitat for:
  - [ ] Federally Listed species. Explain findings.
  - [ ] Fish/spawn areas. Explain findings.
  - [ ] Other environmentally-sensitive species. Explain findings:
  - [ ] Aquatic/wildlife diversity. Explain findings

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in the cumulative analysis: Pick List

Approximately ( ) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)

Summarize overall biological, chemical and physical functions being performed:

SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish or other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:
   - ☐ TNWs: linear feet width (ft), Or, acres.
   - ☐ Wetlands adjacent to TNWs: acres.

2. RPWs that flow directly or indirectly into TNWs.
   - ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial:
   - ☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

Provide estimates for jurisdictional waters in the review area (check all that apply):
- ☐ Tributary waters: linear feet width (ft).
- ☐ Other non-wetland waters: acres.
  - Identify type(s) of waters:

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.
   - ☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
     - ☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:
     - ☐ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:

   Provide acreage estimates for jurisdictional wetlands in the review area: acres.

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.
   - ☐ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide acreage estimates for jurisdictional wetlands in the review area: acres.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.
   - ☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional wetlands in the review area: acres.

7. Impoundments of jurisdictional waters.[9]
   As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.
   - ☐ Demonstrate that impoundment was created from "waters of the U.S.," or
   - ☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
   - ☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):[10]
- ☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
- ☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- ☐ which are or could be used for industrial purposes by industries in interstate commerce.
- ☐ Interstate isolated waters. Explain:
- ☐ Other factors. Explain:

Identify water body and summarize rationale supporting determination:

---

[9] For purposes of this guidance, we will refer to the key in Section III.D.6 of the Instructional Guidebook.

[10] Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA *Memorandum Regarding CWA Act Jurisdiction Following Rapanos*.

Provide estimates for jurisdictional waters in the review area (check all that apply)
- ☐ Tidewaters: linear feet width (ft)
- ☐ Other non-wetland waters: acres
  - Identify type(s) of waters:
- ☐ Wetlands: acres.

NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):
- ☐ Potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- ☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - ☐ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- ☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain:
- ☐ Other: (explain, if not covered above):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):
- ☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource:
- ☐ Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):
- ☐ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource:
- ☐ Wetlands: acres.

SECTION IV: DATA SOURCES.

SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked, appropriately reference sources below):
- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant.
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - ☒ Office concurs with data sheets/delineation report.
  - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps.
- ☐ Corps navigable waters' study.
- ☐ U.S. Geological Survey Hydrologic Atlas.
  - ☐ USGS NHD data.
  - ☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: SC/Jasper
- ☒ USDA Natural Resources Conservation Service Soil Survey Citation: Jasper74.
- ☒ National wetlands inventory map(s). Cite name:
- ☐ State/local wetland inventory map(s):
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): SC99/11211:38
  - or ☐ Other (Name & Date):
- ☒ Previous determination(s). File no. and date of response letter: SAC 81-2005-1981 / 08Nov06
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature.
- ☐ Other information (please specify):

ADDITIONAL COMMENTS TO SUPPORT JD: The 18.41-acre site is a part of a larger, coastal site [illegible] by this office in 2005. Since that time, the the original tract has been subdivided and portions of an isolated, non-jurisdictional [illegible] to the current site have been filled per SC-DOCRM permit #27-06-08-01. As a result, the site no longer [illegible] wetlands.

Digital Submittal Details for Stormwater Projects Requiring Permits

Date: 2/6/09

Project Name: RED OAKS PLAZA PHASE 3

County: JASPER

Parent Parcel#: R080-00-03-065

Prepared by/Firm Name: THOMAS & HUTTON ENGINEERING CO.

Engineer of Record: RYAN M. SMITH
smith.r@thomas-hutton.com

Property Owner (WITH ADDRESS, PHONE NUMBER AND EMAIL):
DTG Holdings LLC
P.O. Box 21299
Hilton Head, SC 29925
(843) 379-5700
Contact: Andy Smith
andys@malphrus.com

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT is made and entered into on the 8th day of April, 2008 by and between Jasper Station Associates, LLC (hereinafter "Seller") by Richard Turner, Agent, and DTG Holdings, LLC (hereinafter "Purchaser"), by Gregg A. Malphrus, Agent and/or assigns.

IN CONSIDERATION of the premises and of the mutual promises and covenants herein contained, the Seller and Purchaser agree as follows:

1. Property. The Seller agrees to sell and the Purchaser agrees to purchase the real estate known as 18.41 acre PARCEL "B" with access road 50' R/W to Highway 141, located directly northeast of Malphrus property on Hwy 170 in Jasper County, SC, as shown on the attached plat of Jasper Station Associates, LLC a boundary and division of Tax Map #080-00-03-065 near Cherry Point, Jasper County, SC as prepared by TGS Land Surveying, Ridgeland, SC City of Hardeeville Development Standards "EXEMPT FOR RECORDING" signed and dated 3/18/08. Seller is annexing this tract into the town of Hardeeville, SC.

2. Purchase Price. The Purchase Price of the Property is two million two hundred nine thousand two hundred dollars ($2,209,200.00 dollars).

(a) In Cash and Owner Financing at Closing

(b) No later than 10 days after full execution of Purchase Agreement, Purchaser will deposit with the Escrow Agent one hundred dollars ($100.00).

(c) The Owner will finance $1,100,000.00 for 12 months, with a Second Position to the Purchaser's bank at an interest rate of ½% (.05) APR or a maximum of five thousand five hundred dollars ($5,500.00). Interest and principle payment will be made in a lump sum on or before due date which is twelve months from the first closing. There will be no prepayment penalty.

(d) Earnest Money Deposit will be applied to Purchase Price at Closing.

3. Due Diligence. This Purchase Agreement is contingent (#1) upon the completion of clearing, grubbing, fill, grading and seeding of 6.07 acre portion of the above described property. The Seller will hold the Purchaser harmless for any wetland credits assessments or fines that may be charged by the government agencies as a result of the filling and grading of the 6.07 acres. A Contract to perform this work is attached hereto for reference. This Purchase Agreement is contingent (#2) upon the acceptance, approvals and permits by all governmental agencies as required for the Purchaser's full development of all 18.41 acres. This Purchase Agreement is further contingent (#3) upon proper zoning being granted by the City of Hardeeville, SC for the Purchaser's intended use of the property. Should acceptance by all governmental agencies not be obtained before 2 years from the date of this Purchase Agreement, the Purchase Agreement may be terminated by either party with a written notice before the end of the Due Diligence. In order to apply for permits as required for necessary approvals from all government agencies as required for the Purchaser's full development of all 18.41 acres, the Purchaser must have engineering drawings and engineering submittals. The estimated cost as shown in the Thomas and Hutton Engineering Proposal for this work dated March 15, 2008 (attached by reference) shows a total fixed fee of $30,650.00 plus a total T&E budget of $14,300.00. Should the required permits from the governmental agencies not be issued and/or approved for any reason other than faulty work, the Seller will reimburse the Purchaser all cost concerning same and take title to all work product developed by Thomas and Hutton for this project.

4. Closing. (See Par.3 Due Diligence.) It is agreed by the parties hereto that the terms of this Contract shall be complied with. The Closing of this transaction will take place in the Purchaser's Attorney's office and shall be 60 days from the later of the following: receipt of written verification from the governing agencies that the contract work as described in Par. 3 (Due Diligence) is acceptable and complete, or written verification of the government agencies as required for the Purchaser's full development of all 18.41 acres.

EXHIBIT 5

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5. Conveyance. The Seller shall convey good and marketable title to the Property to Purchaser in fee simple by general warranty deed, free and clear of all encumbrances except those specifically agreed to be assumed by Purchaser. Seller shall assign to Purchaser, and shall execute necessary documents at Closing to effect such assignment, all right, title and interest it may have in the Contract Rights appertaining to the Property. All real property taxes and other applicable items shall be prorated as of the Closing Date. Purchaser shall not be responsible for any rollback taxes assessed on the Property for tax periods prior to the date of closing. Seller shall provide, at closing, executed seller closing affidavits and gap indemnity as reasonably required by Purchaser's legal counsel and title insurance company.

6. Closing Expenses. Seller shall be responsible for paying the Deed Recording Fee as required by Section 12-24 of the Code of Laws of South Carolina 1976, as amended (formerly referred to as documentary stamps) and Roll Back Taxes for tax periods assessed prior to the date of closing, as well as for preparation of the deed. Purchaser shall be responsible for all financing costs, attorney fees in connection with the title examination, title insurance costs, any other fees for recording the deed, any loan documentation. As to any other expenses associated with Closing, Seller and Purchaser will pay such closing expenses customarily paid by sellers and purchasers in Jasper County, South Carolina.

7. Seller's Representations. To the best of Seller's knowledge and relied upon by Purchaser:

(a) Title to Property. Seller is the sole owner of good, marketable and insurable fee simple title to all of the Property.

(b) Options. No options or other contracts are still outstanding giving any other party a right to purchase any interest in the Property or any part thereof.

(c) Condition of Property. See Par. 1 (Property, concerning Annexation) and Par. 3 (Due Diligence). Seller has no knowledge of any special or unusual construction requirements that would be necessary for development of the Property, except as provided in the approved development plat regarding setbacks and other such requirements as provided by the various governing agencies.

(d) Condemnation Proceedings; Roadways. There are no condemnation or eminent domain proceedings pending or contemplated against the Property or any part thereof and the Seller has received no notice, oral or written of the desire of any public authority or other entity to take or use the Property or any part thereof.

(e) Pending Litigation. Seller is not now a party to any litigation affecting the property, or any part thereof or affecting Seller's right to sell the Property, and Seller knows of no litigation or threatened litigation affecting the Property, or any part thereof. Seller shall give Purchaser prompt notice of the institution prior to closing of any such litigation.

(f) No Encroachments. No structure of any kind encroaches on the land, nor do any other encroachments whatsoever exist.

(g) Events Prior to Closing and Other Information. See Par. 1 (Property) and Par.3 (Due Diligence). Seller will not cause or permit any action to be taken which would cause any of the foregoing representations or warranties to be untrue as of the Closing. Seller agrees to immediately notify Purchaser in writing of any event or condition which occurs prior to Closing hereunder, which causes a change in the facts related to, or the truth of any of the above representations. Seller has no knowledge or information of any facts or circumstances that would adversely affect the development of the Property which are not set forth in this Agreement.

(h) Further Acts of Seller. On or before the closing date, Seller will do, make,

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execute and deliver all such additional and further acts, things, deeds, instruments and documents as may be reasonably required by Purchaser to completely vest in and assure to Purchase full rights in or to the Property.

8. Seller Authorization. At Closing, Seller shall provide to Purchaser evidence of all authorizations required for the conveyance of the Property and shall execute all documentation reasonably requested by Purchaser's title company.

9. Brokerage Fees/Disclosure. Each party represents and warrants to the other that they have dealt with no real estate broker other than Robert Glover d/b/a Mostly Commercial and Richard Turner of Gateway Realty, LLC. Mostly Commercial and Gateway Realty, LLC shall receive a sales commission as outlined in their agreement with the Seller, to be paid by the Seller upon closing of the transaction. Each party hereto agrees to indemnify and hold harmless the other party for any claim of any other commission by others arising by, through or on account of the acts of such party. The real estate brokers in this transaction agree by the acceptance of this Purchase Agreement, that the commissions will be deemed to have been earned when and if, the matter closes.

10. Notices. Any notice, communication, request, approval or consent which may be given or is required to be given under the terms of this Purchase Agreement shall be in writing and shall be transmitted via first-class mail to the Seller or the Purchaser, as the case may be, at the addresses below:

To Seller:
Jasper Station Associates, LLC
Rick Turner, Agent
c/o Gateway Realty
2 Belfair Oaks Blvd
Bluffton, SC 29910

To Purchaser:
DTG Holdings, LLC
Gregg A. Malphrus, Agent
30 Red Oaks Lane
Ridgeland, SC 29936

Copy to:
Seller's Attorney:
Cary S. Griffin
23-B Shelter Cove Lane, Suite 400
Hilton Head Island, SC 29928

Copy to:
Purchaser's Attorney:
Barry L. Johnson, P.A.
10 Pinckney Colony Road, Suite 200
Bluffton, SC 29910

11. Condemnation. In the event that at the time of closing all or any part of the Property is acquired, or is about to be acquired, by authority of any governmental agency in the exercise of its power of eminent domain or by private purchase in lieu thereof (or in the event that at such time there is any threat or imminence of any such acquisition by any such governmental agency), Purchaser shall have the right, at its option, to terminate this Purchase Agreement and recover its deposit hereunder, or to purchase only so much of the Property not condemned or under threat of condemnation, in which event the purchase price and terms shall be adjusted accordingly. In the event that at such time there is any threat or imminence of any such acquisition by any such governmental agency, Purchaser shall have the right to receive and retain any proceeds received or delivered in furtherance of such condemnation or purchase.

12. No Joint Venture. It is understood and agreed between the parties hereto that this is a contract for the sale of real estate and is in no way to be considered a joint venture between Seller and Purchaser.

13. Miscellaneous. This Contract shall be binding upon and shall inure to the benefit of Seller and Purchaser, their respective successors, successors-in-title, legal representatives, heirs and assigns. In the event any provision hereof is held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of any other provision hereof. There are no verbal representations, inducements, promises or agreements not expressly set forth herein which shall be of any

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force or effect. At Purchaser's election, a short form Memorandum of Contract shall be executed for recording purposes. If either party is required to institute suit against the other party to enforce its rights under this Contract and if either party obtains a valid judgment against the other party, the non-prevailing party agrees to pay all reasonable costs, expenses and reasonable attorney fees of the prevailing party attributable to the enforcement of the Contract. This Contract may not be modified except by written modification, executed by all parties hereto. All titles or captions of the paragraphs set forth in this Contract are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Contract, or the intent of any provision hereof.

14. Broker Disclosure. Robert Glover is a licensed real estate agent in South Carolina and is acting as a Seller's Agent and Customer's Agent of the Buyer. Richard F. Turner is a licensed real estate agent in South Carolina and is acting as a Seller's Agent. Robert Glover, Rick Turner and Carole Moss a real estate agent licensed in Georgia are all principals in Jasper Station Associates, LLC.

15. Facsimile Use. Negotiations may be conducted using a facsimile machine (FAX) and will be considered binding on the parties, so long as original and signed copies of the Contract shall thereafter be provided by both parties as soon as reasonably possible.

16. Acceptance. The Seller shall accept and execute this Contract by facsimile or hand delivered original.

17. Escrow Agent. Barry L. Johnson, P.A. shall provide the Escrow Agent services hereinabove referred to. The Escrow Agent shall not be charged with any knowledge until such facts are communicated to the Escrow Agent in writing. The Escrow Agent shall not be required to institute or maintain any litigation unless indemnified to its satisfaction for its counsel fees, costs, disbursements and all other expenses and liabilities to which it may, in its judgment, be subjected in connection with this action. The Seller and Purchaser shall at all times indemnify the Escrow Agent against all actions, proceedings, claims or demands arising from this transaction except for gross negligence or bad faith on the part of the Escrow Agent. In the event of a dispute by and between the Seller and Purchaser which cannot be resolved, Escrow Agent shall have the option of depositing the earnest money deposit into the Clerk of Court's office for Beaufort County pending resolution of the disposition of said funds and upon depositing said funds; Escrow Agent shall bear no further responsibility.

IN WITNESS WHEREOF, the Purchaser herein has caused this Contract to be duly executed this 10th day of April, 2008.

WITNESSES:

Andrew Smith

Bailey Barth

PURCHASER:
DTG Holdings, LLC

By: Gregg A. Malphrus, Agent

IN WITNESS WHEREOF, the Seller herein has caused this Contract to be duly executed this 10 day of April, 2008.

WITNESSES:

Rachel Calvert

Karen L. Lasoge

SELLER:
Jasper Station Associates, LLC

By: Richard Turner, Agent

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4-10-08

AIA® Document A101™ – 1997

Standard Form of Agreement Between Owner and Contractor

where the basis of payment is a STIPULATED SUM

AGREEMENT made as of the Seventh day of April in the year of Two Thousand Eight
(In words, indicate day, month and year)

BETWEEN the Owner:
(Name, address and other information)

Jasper Station Associates, LLC
Rick Turner, Agent
C/o Gateway Realty
2 Belfair Oaks Blvd.
Bluffton, SC 29910

and the Contractor:
(Name, address and other information)

Malphrus Construction Company, Inc.
P.O. Box 21299
Hilton Head, SC 29925
Telephone Number: 843-379-5700
Fax Number: 843-379-5777

The Project is:
(Name and location)

Proposed Malphrus Tract
Ridgeland, SC

The Scope is as follows:
(Name, address and other information)

Clearing and grubbing, fill, grading and seeding of the 6.07 acre portion (as shown on the topographical survey as performed by TGS Land Surveying, Ridgeland, SC). Of the 18.41 acre PARCEL B Tract and the clearing, grubbing, fill, grading and seeding of the access road 50' R/W connecting Highway 141 with the 18.41 acre parcel described in the Purchase Agreement dated April 8, 2008.

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201-1997, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

This document has been approved and endorsed by The Associated General Contractors of America.

Init.
RM 4-8-08
4-8-08

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ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 8.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.
(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

The commencement date will be fixed in a notice to proceed.

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanic's liens and other security interests, the Owner's time requirement shall be as follows:

§ 3.2 The Contract Time shall be measured from the date of commencement.

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than 60 days from the date of commencement, or as follows:
(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. Unless stated elsewhere in the Contract Documents, insert any requirements for earlier Substantial Completion of certain portions of the Work.)

Portion of Work	Substantial Completion Date

, subject to adjustments of this Contract Time as provided in the Contract Documents.
(Insert provisions, if any, for liquidated damages relating to failure to complete on time or for bonus payments for early completion of the Work.)

N/A

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be One Hundred Seventy-six Thousand Three Hundred Sixty-six Dollars and Thirty Cents ($ 176,366.30), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:
(State the numbers or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires)

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§ 4.3 Unit prices, if any, are as follows:

Description	Units	Price ($ 0.00)
Please see attached Schedule of Values		

ARTICLE 5 PAYMENTS

§ 5.1 PROGRESS PAYMENTS

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the Twenty-fifth day of a month, the Owner shall make payment to the Contractor not later than the Twenty-fifth day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than Thirty (30) days after the Architect receives the Application for Payment.

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

.1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Zero percent (0.00%). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.8 of AIA Document A201-1997;

.2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of Zero percent (0.00%);

.3 Subtract the aggregate of previous payments made by the Owner; and

.4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-1997.

§ 5.1.7 The progress payment amount determined in accordance with Section 5.1.6 shall be further modified under the following circumstances:

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.1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and
(Section 9.8.5 of AIA Document A201-1997 requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.)

.2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201-1997.

§ 5.1.8 Reduction or limitation of retainage, if any, shall be as follows:
(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

N/A

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 FINAL PAYMENT

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when:

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201-1997, and to satisfy other requirements, if any, which extend beyond final payment; and

.2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

ARTICLE 6 TERMINATION OR SUSPENSION

§ 6.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-1997.

§ 6.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-1997.

ARTICLE 7 MISCELLANEOUS PROVISIONS

§ 7.1 Where reference is made in this Agreement to a provision of AIA Document A201-1997 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 7.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.
(Insert rate of interest agreed upon, if any.)

RAH 4-8-08 JM 4-8-08

(.5% per annum

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)

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User Notes: (2816729834)

Init. RAH 4-8-08 JM 4-8-08

§ 7.3 The Owner's representative is:
(Name, address and other information)

Rick Turner, Agent
C/o Gateway Realty
2 Belfiar Oaks Blvd.
Bluffton, SC 29910

§ 7.4 The Contractor's representative is:
(Name, address and other information)

Gregg A. Malphrus
P.O. Box 21299
Hilton Head, SC 29925

§ 7.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days written notice to the other party.

§ 7.6 Other provisions:

ARTICLE 8 ENUMERATION OF CONTRACT DOCUMENTS.

§ 8.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

§ 8.1.1 The Agreement is this executed 1997 edition of the Standard Form of Agreement Between Owner and Contractor, AIA Document A101-1997.

§ 8.1.2 The General Conditions are the 1997 edition of the General Conditions of the Contract for Construction, AIA Document A201-1997.

§ 8.1.3 The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated , and are as follows

Document	Title	Pages

§ 8.1.4 The Specifications are those contained in the Project Manual dated as in Section 8.1.3, and are as follows:
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)
Title of Specifications exhibit:
(Table deleted)

§ 8.1.5 The Drawings are as follows, and are dated unless a different date is shown below:
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)
Title of Drawings exhibit:
(Table deleted)

§ 8.1.6 The Addenda, if any, are as follows:

Number	Date	Pages
1 - Attached		

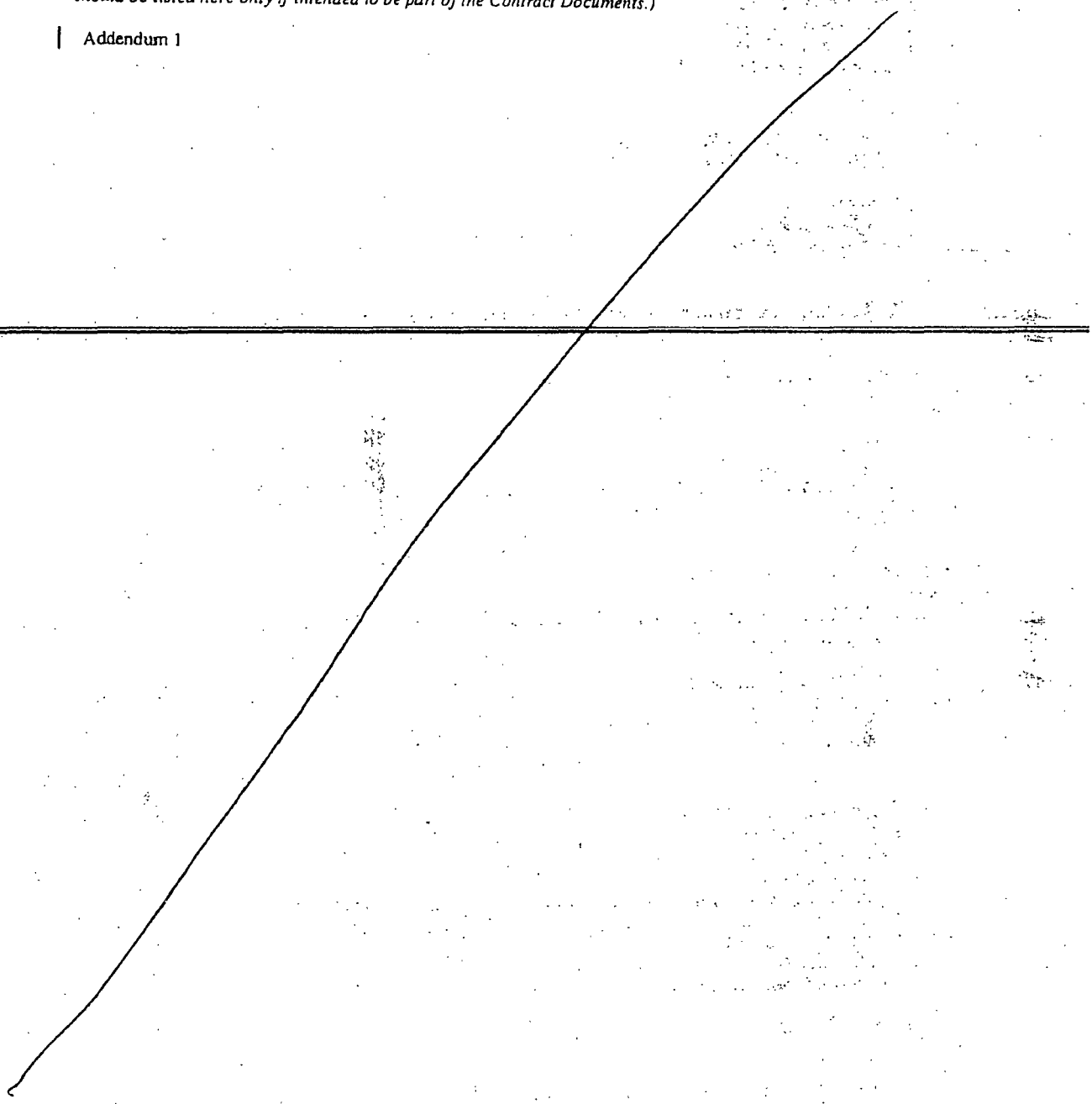
Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 8.

Init. RAT 4-8-08
Jm 4-8-08

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User Notes:
(2816729834)

§ 8.1.7 Other documents, if any, forming part of the Contract Documents are as follows:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-1997 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Addendum 1



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User Notes:

Init. RH 4-8-08 / JC 4-8-08

(2816729834)

This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*

Rick Turner, Agent
(Printed name and title)

CONTRACTOR *(Signature)*

Gregg A. Malphrus, Secretary-Treasurer
(Printed name and title)

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(2816729834)

Init. 4-8-08

4-8-08

AIA ADDENDUM 1

This Addendum hereby amends the AIA Contract between Jasper Station Associates, LLC (hereinafter referred to as "Owner") and Malphrus Construction Company, Inc. (hereinafter referred to as "Contractor") for the following scope of work.

Topographical Survey as performed by TGS Land Surveying Ridgland, SC, clearing, grubbing, fill, grading and seeding 6.07 acre portion of the 18.41 acre PARCEL B and the clearing, grubbing, fill, grading and seeding of the ACCESS ROAD 50' R/W connecting Highway 141 with the 18.41 acre parcel described in Purchase Agreement dated April 8, 2008 and attached hereto.

Article 5: Payments is hereby amended as follows: Owner will pay Contractor in a lump sum at the Closing of the Property as described in the Purchase Agreement. Should the permits called for by the Purchase Agreement not be issued by all government agencies or either party terminates the Purchase Agreement under the terms of the Purchase Agreement within 60 days of the work completion, the Contractor may give the Owner a 45-day written notice to pay contract sum in full. This Addendum supercedes Article 5 of this AIA document.

Article 8.1.3: There is no project manual for this project and therefore no supplementary information to this contract ~~except for the topographical drawing attached to the Contract.~~

Hold Harmless

The Owner will issue a Notice to Proceed to the Contractor once the permit has been issued for clearing, grubbing, fill, grading and seed ing of the 6.07 acres. Should any governmental agency stop the work or file for litigation or assess fines to the Contractor or cause any liability whatsoever to the Contractor except for faulty workmanship and public liability caused by the Contractor's operation, the Owner will hold the Contractor harmless and bare the cost of any liability directed toward the Contractor for its performance of this work.

Init. 4-8-08

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User Notes: (2816729834)

4-8-08

DATE:	9/26/2007						
				MALPHRUS CONSTRUCTION CO., INC			
OWNER:				PHONE#		843-379-5700	
PROJECT:	MALPHRUS BACK LOTS			Fax #		843-379-5777	
ENGINEER:							
SITE WORK PROPOSAL:							
Description				Quantity	UOM	Unit Price	Extension
PROPOSED MALPHRUS TRACT							
CLEARING & GRUBBING	Chip & Haul						
WETLAND		6.07	AC	6.07	AC	$4,800.00	$29,136.00
EROSION CONTROL				1	LS	$16,304.50	$16,304.50
CONSTRUCTION ENTRANCE		1	EA				
SILT FENCE, TYPE A, INSTALL		3887	LF				
SILT FENCE, TYPE A, MAINTAIN		3887	LF				
WATER MONITORING		2	MO				
NPDES		1	LS				
EROSION CONTROL		1	LS				
EARTHWORK				1	LS	$94,751.00	$94,751.00
STRIPPING, WETLAND PORTION		6558	CY				
BORROW EMBANKMENT, WETLAND PORTION		6229	CY				
GRADING				1	LS	$7,373.20	$7,373.20
FINE GRADE UNSPECIFIED, WETLAND		29379	SY				
INTERNAL BROOMING		5	DAY				
FINAL BROOMING		1	LS				
MOBILIZATION				1	LS	$850.00	$850.00
LAYOUT				1	LS	$2,200.00	$2,200.00
MISC. ITEMS							
GRASSING, PERMANENT				29379	SY	$0.40	$11,751.60
TOPO				1	LS	$14,000.00	$14,000.00
							$176,366.30

RAP 4-8-08

4-8-08

21099.520

THOMAS & HUTTON ENGINEERING CO.
50 Park of Commerce Way
Post Office Box 2727
Savannah, Georgia 31402-2727
Telephone (912) 234-5300
Fax (912) 234-2980

February 9, 2009

Ms. Christine Koczera
South Carolina Department of Health
and Environmental Control
Office of Ocean and Coastal Resource Management
1362 McMillan, Avenue, Suite 400
Charleston, SC 29405

Re: Red Oaks Plaza Phase 3

Dear Christine:

On behalf of our client DTG Holdings LLC, please find enclosed the following information in support of our request for a Land Disturbance Permit for the above referenced project:

1. 1 set of site development plans
2. 1 copy of the Plan Review Checklist
3. 1 copy of the NOI
4. $1,965.00 NOI review fee
5. 1 copy of the Permanent Stormwater System Maintenance and Responsibility Agreement and Plan
6. 1 copy of the Stormwater Management Report
7. 1 copy of the USACOE Wetland Verification Letter
8. 1 copy of the Digital Project Boundary Submittal Form
9. 1 copy of the Firm Map

Thank you for your attention to this project. If you have any questions or need additional information please call our office.

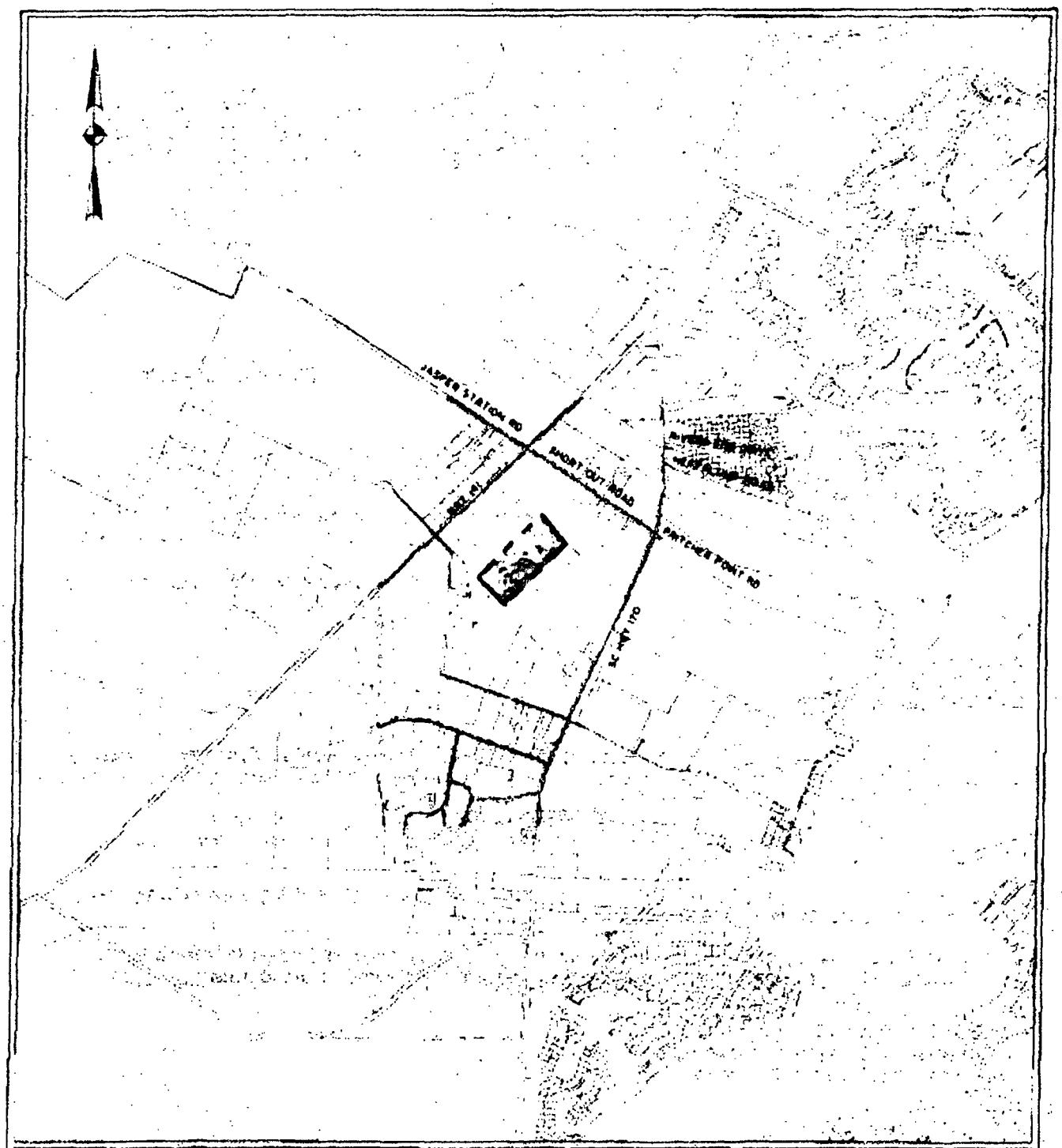
Sincerely,

THOMAS & HUTTON ENGINEERING CO.

Darrell K. Callaway

EXHIBIT
tabbies 6

DKC/kts
Enclosures



RED OAKS

PROPOSED ACTIVITY: COMMERCIAL BUISNESS PARK
VICINITY MAP
CLIENT:
DTG HOLDINGS, LLC

DATE: 2/6/2009
LOCATION: JASPER CO., S.C.

SHEET: 1 OF 1
SCALE: 1" = 12,000'

THOMAS & HUTTON ENGINEERING CO.
50 PARK OF COMMERCE WAY
POST OFFICE BOX 2727
SAVANNAH, GA. 31402
PHONE: (912) 234-5300
FAX: (912) 234-2560
WWW.THOMAS-HUTTON.COM
GEORGIA - SAVANNAH, BRUNSWICK
SOUTH CAROLINA - CHARLESTON, MYRTLE BEACH
NORTH CAROLINA - WILMINGTON

Stormwater Management and Sediment and Erosion Control Plan Review Checklist For Design Professionals

Please indicate the location and page number(s) where each item below can be found in your SWPPP or supporting calculations. If an item is not applicable, put N/A. The Department reserves the right to modify this checklist at any time. The Coastal Zone consists of the following counties: Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper.

Checklist Completed by:
Printed name: _____ Signature: _____ Date: _____

1. **CURRENT COMPLETED APPLICATION FORM**
   - Original signatures
   - Signatory authority
   - All items completed and answered
   - Fee Schedule
   - *Note: State and local government projects are not exempt from the plan review fee of $100 per disturbed acre.*
2. **COPIES OF PLANS AND CALCULATIONS**
   - Plans stapled together!
   - For projects that disturb more than 2 acres, less than or equal to 2 acres but are part of a larger common plan of development or sale (LCP), or more than 0.5 acre and within ½ mile of a receiving waterbody (RWB) in the Coastal Zone, ONE set of plans and supporting documentation (report, calculations, maps, etc.)
   - For projects that disturb less than or equal to 2 acres (not part of LCP and not within ½ mile of RWB in the Coastal Zone), THREE sets of plans and one set of supporting documentation [*Note: You may submit up to 2 additional sets of plans to be stamped for approval.*]
   - Supporting documentation tabbed (e.g., Maps, Pre-Development calculations) and pages numbered [no loose pages]
3. **LOCATION MAP**
   - North arrow and scale
   - Outlined project location
   - Labeled road names
4. **PROJECT NARRATIVE**
   - Scope of project outlined, including a brief description of pre- and post-development conditions
   - Summary table of pre- and post-development flows (at least 2- and 10-year, 24-hour storm events)
   - Existing flooding problems in the surrounding area described
   - Disturbed area calculations included for subdivision projects or LCP disturbing 1 or more acres
     - For subdivisions if the site is not to be mass-graded, the following formula should be used to determine the amount of disturbance:

       Amount of Disturbance = 2[Max Restricted Building Size][Number of Lots] + Right of Way (ROW) areas {ROW areas include clearing for roads, utilities, easements etc.}

     - If this equation is used, include a note on the **plans** stating: "The site is not to be mass-graded. Only 2 times the footprint is to be cleared as the lots are developed. The assumed disturbance on each lot is ____ sq. ft."
5. **USGS TOPOGRAPHIC MAP**
   - Project boundary outlined
   - Route of runoff from site to nearest waterbody shown
   - Road names adjacent to site labeled
6. **SOILS INFORMATION**
   - Project boundary outlined
   - Predominate soil types found at the site identified on the plans or on a separate map
   - *Note: Soils information is available from the Natural Resource Conservation Service through their website: http://websoilsurvey.nrcs.usda.gov/app/*
7. **FLOODWAY MAPS/FEMA FLOOD INSURANCE MAP**
   - Project boundary outlined, if in close proximity to floodplain/ floodway
   - *Note: The Department does not regulate the placement of fill in floodplains. Please see your local city or county official.*

Updated 10/3/06

8. WATERS OF THE STATE, INCLUDING WETLANDS

- Delineation of all waters of the State (WoS), including wetlands, shown and labeled on plans (delineation not required if a 100-ft undisturbed buffer can be maintained between the WoS and all land-disturbing activities)
- Additional, separate plan sheet that shows all WoS on the site and the impacted areas with a description of the activity(s), whether it is permanent or temporary, and any other relevant information.
- If impacts to WoS, outlined areas of impacts and labeled that no work can begin in this area until all necessary USACOE permits and SCDHEC 401 certifications have been obtained.
- Double row of silt fence provided in all areas where a 50' undisturbed buffer cannot be maintained between the disturbed area and the WoS
- Minimum 10' maintenance buffer provided between last row of silt fence and WoS; or, if buffer not provided, then statement from P.E. on plans indicating how silt fence will be installed and maintained without impacts to WoS
- *Note: If there are proposed impacts to WoS, then it is advised that you contact USACOE (866-329-8187) and/ or S.C. DHEC Water Quality Certification, Standards & Wetlands Programs Section (803-898-4300) to determine additional requirements before submitting the Notice of Intent (NOI).*
- *Note: If WoS are to be impacted, work cannot be performed in these designated areas until all necessary permits have been acquired*
- *Note: If a USACOE permit is required for construction of or access to a temporary or permanent stormwater management structure, NPDES permit coverage cannot be granted until the USACOE permits and S.C. DHEC 401 Section certifications are obtained.*
- *Note: The Department recommends a minimum 20-foot buffer between a sediment trap/basin and WoS.*

9. HYDROLOGIC ANALYIS

- Pre- and post-developed hydrologic analysis calculations for the 2- and 10-year, 24-hour storm events at each outfall point
- Drainage area maps that clearly correspond to the calculations (pre- and post-development)
- Analysis points for comparing runoff rates and the total drainage area analyzed do not change from pre- to post-development, although the immediate drainage areas contributing to each analysis point might shift.
- Post-development discharges less than pre-development discharges for each outfall point (if not, then see "Detention Waiver" section below)
- Analysis performed using SCS 24-hour storm (Rational method is not acceptable)
- Rainfall data from South Carolina DHEC Storm Water Management BMP Handbook (BMP Handbook) used in all calculations
- *Note: The curve number for open water, marshes, etc. should be 98 to 100.*

10. DETENTION ANALYSIS/DESIGN

- **Analysis**
  - Pond routing using a volume-based hydrograph for the 2- and 10-year, SCS 24-hour storm event (Drain:Edge, ICPR, HEC-1, SedCAD, HYDRAFLOW, etc. perform full pond routings; TR55 does not perform a full pond routing; rational method cannot be used)
  - Hydrologic and hydraulic calculations necessary to determine the impact of hydrograph timing modifications of the proposed land-disturbing activity, with and without the detention structure (results of analysis will determine the need to modify the detention design or eliminate the detention requirement—see note 2 below)
  - Inputs and outputs from analysis program
  - Summary table of the peak inflows, peak outflows, discharge velocities, and maximum water surface elevations (WSE) for the 2- and 10-year, 24-hour storm events for each detention structure
  - Stage-storage-discharge relationship for the outlet structure of each detention structure
  - If a rating curve for the outlet structure must be generated externally from the analysis program (Drain:Edge, HEC-1, etc.), data and equations used to rate the outlet structure
  - As-built of existing detention pond if the site drains to an existing detention pond (see below)
  - *Note: SedCAD users please refer to the memo regarding the input of outlet structures.*
  - *Note: The Department recommends using the 10% rule in performing analysis. The hydrologic analysis should be conducted for the larger drainage area, where the site in question encompasses 10% of the total drainage area. For example, if your site is 10 acres, then the hydrologic analysis should be performed at the point downstream where the contributing drainage area, including your 10-acre site, is approximately 100 acres.*
- **Design**
  - Detail of outlet structure and cross-section of the dam/ berm or pond bank, including elevations and dimensions that correspond to the calculations
  - Orifice constructability considered (do not specify orifice diameters with increments of less than ¼")

- Maximum WSE for the 10-year storm event below the emergency spillway with 0.5-ft of freeboard between maximum WSE for the 10-year storm and the emergency spillway
- Maximum WSE for the 100-year storm event below the embankment with 0.5-ft of freeboard between maximum WSE for the 100-year storm and the embankment
- Dewatering time calculations for the 10-year storm event (dry ponds must drain completely within 72 hours)
- Bottom of all detention and retention ponds graded to have a slope of not less than 0.5%
- If the pond is to be used for sediment control during construction, temporary horseshoe-shaped riprap berm in front of any low level outlets provided during construction and shown on the pond detail
- Permanent maintenance access to all permanent detention structures (easements may be needed for structures surrounded by lots)
- Infiltration systems designed in accordance with S.C. Reg. 72-307 C(11) [specify how items a-j have been addressed]
- *Note: Emergency spillways should not be built on fill slopes.*
- *Note: The Department recommends installation of a trash rack or other debris-screening device on all pond risers.*
- *Note: The Department recommends a maximum slope of 3:1 on pond embankments to allow for ease of maintenance.*
- *Note: The Department recommends installation of sediment forebays at each outfall into the detention/ sediment basin.*

11. AS-BUILTS

- Provided for all previously approved detention ponds that will receive flows from new drainage areas
- Prepared by a South Carolina Licensed Land Surveyor
- Grades/ contours/ depths for pond
- Elevations and dimensions of all outlet structures, including:
  - Pipe and orifice inverts and diameters
  - Weir elevations and dimensions
  - Riser dimensions and elevations
  - Emergency spillway dimensions and elevations
  - Locations and inverts for all pipes discharging into the pond
- If the elevations or dimensions of the structures listed above do not match those used in the approved plans, certification statement signed by the project's Registered Engineer indicating that the pond, as built, will function within all applicable standards provided [new analysis of the pond (routing) may be necessary]
- For projects located in the eight coastal counties: For any construction project permitted after September 1, 2006, as-built/record drawings will be required by DHEC-OCRM prior to stormwater permit closeout. Prior to the contractor requesting a final site inspection, one as-built drawing hard copy and 1 digital (scanned plan sheets as .tif or .pdf document) copy must be provided to OCRM staff.
- *Note: As-built survey and /or analysis must be submitted and accepted by the Department before Notice of Termination (NOT) is submitted.*

12. PERMANENT STORMWATER MANAGEMENT STRUCTURE MAINTENANCE

- Signed agreement from the responsible party accepting ownership and maintenance of the structure
- Description of maintenance plan to be used
- Schedule of maintenance procedures (e.g., every 6 months)
- Detailed or manufacturer-specific maintenance items for proprietary control devices (oil-water separators, etc.), underground detention structures, exfiltration systems and non-traditional stormwater controls (constructed wetlands, bioretention, etc.)
- Typical maintenance items to be addressed
  - Grass to be mowed
  - Trees to be removed from within the pond and on the embankment
  - Trash and sediment to be removed from inside of and around the pond outlet structure
  - Orifices to be cleaned and unclogged
  - Outlet pipe to be cleaned, inspected, and repaired
  - Sediment accumulation to be removed from pond
  - Pond bottom to be regraded to provide proper drainage towards the outlet discharge point
  - Energy dissipator to be cleaned and repaired
  - Emergency spillway, if applicable, to be inspected and repaired
  - Erosion on side slopes, if present, to be addressed
  - The Department must be notified in writing of any changes in maintenance responsibility for the stormwater devices at the site (include this statement in agreement).

- *Note: The Department recommends that the county, city, or other governing utility, which has the authority to accept the ownership and maintenance of a storm drainage system also accept the permanent stormwater management structure.*
- *Note: If the entity or person with maintenance responsibility changes, then a new maintenance agreement, signed by the new person responsible for maintenance, must be provided to the Department. If a new, signed maintenance agreement is not provided to the Department, then the entity/ person who signed the most recent maintenance agreement on file with the Department will be considered the responsible entity.*

13. DISCHARGE POINTS

- Storm drainage or pond outfalls carried to an existing drainage outfall such as a pipe, ditch, etc.
- No new point discharges onto adjacent property where there was not a point discharge previously, unless written permission from the adjacent property owner is provided
- Level spreaders, plunge pools, etc. provided when the proposed outlet is near the property line and not directed to an existing outfall, such as a creek or ditch
- Twenty (20)-foot minimum buffer is provided between the property line and the discharge point
- Outlets shall not discharge on fill slopes

14. DETENTION WAIVER

- *Note: If the 2- and 10-year, 24-hour post-developed flow rates exceed the pre-developed rates, waivers from detention may be granted in accordance with regulation 72-302(B) on a case-by-case basis.*
- Justification and a written request, including the following statement: "*the increased flows will not have a significant adverse impact on the downstream/adjacent properties*"
- A project may be eligible for a waiver or variance of stormwater management for water quantity control if the applicant can demonstrate that:
  - The proposed project will have no significant adverse impact on the receiving natural waterway or downstream properties; or
  - The imposition of peak control requirements for rates of stormwater runoff would aggravate downstream flooding
- Waiver signed by the project's Professional Engineer
- *Note: See note in checklist item 10 regarding the 10% rule.*

15. PERMANENT WATER QUALITY REQUIREMENTS

- Permanent water quality addressed (all projects or LCP that disturb 5 or more acres)
  - Wet ponds designed to catch the first ½" of runoff from the entire area draining to the pond and release it over at least a 24-hour period
  - Dry ponds designed to catch the first 1" of runoff from the entire area draining to the pond and release it over at least a 24-hour period
  - For areas not draining to a pond, show how permanent water quality requirements were addressed
- Projects disturbing less than five (5) acres but within one-half (1/2) mile of a receiving water body in the Coastal Zone must meet Section III.C.3.XIII.A of the Coastal Zone Management Program Refinements. Designs must show that the first ½ inch of runoff from the entire site or the first one (1) inch of runoff from the built upon area, whichever is greater, can be stored onsite.
- Waters of the U.S./State are not used for permanent water quality control (alternative means of treatment must be used if an existing pond is to be used for water quantity control).
- *Note: Other non-traditional stormwater controls such as Bioretention areas, constructed wetlands, etc. may be used. Consult the BMP Handbook for information on the design of these devices.*
- *Note: Pre-fabricated or proprietary treatment devices are approved on a case-by-case basis if adequate removal efficiency can be demonstrated. Provide pollutant removal efficiency data, preferably from a third-party testing company. Type of system selected should be based on the ability to remove the pollutants of concern in that area/situation (bacteria, hydrocarbons, etc.).*

16. SEDIMENTOLOGY

- Trapping efficiency calculations showing that all sediment basins/ traps are capable of achieving a sediment trapping efficiency of at least 80% for the 10-year, 24-hour storm event, if more than 10 disturbed acres drain to a common point (stream, lake, etc.)
- Sediment basins provide storage for the 10-year, 24-hour storm event for disturbed conditions or 3600 ft^3/ acre draining to the basin, if more than 10 disturbed acres drain to a common point (stream, lake, property line, etc.)
- Sediment traps only used for drainage areas of less than 5 acres.
- Sediment trap storage calculations, showing that 1800 ft^3/ total acre draining to each trap is provided below the spillway
- If trapping efficiency calculations are required for sediment traps, then provide peak outflow, q_{po}, calculations; the 10-year, 24-hour storm event for construction conditions cannot overtop the trap's spillway

- Sediment basins and traps designed for total area draining to them
- Drainage area map outlining the area draining to each basin/ trap
- Copies of figures used to determine V_{15} (SV-1) and trapping efficiency (ST-1, SB-1, SB-2), if Design Aids from BMP manual are used to determine trapping efficiencies
- Silt fence only used in areas with drainage areas of less than ¼ acre per 100 LF of fence and not used in areas with concentrated flows
- Clean-out stake, marked at ½ the designed sediment storage depth, provided in all sediment basins/ sediment traps
- *Note: Consult the BMP Handbook for information on the design of these and other devices.*
- *Note: The Design Aids in the BMP Handbook cannot be used to determine trapping efficiencies for structures in series. If the flow for the10-year, 24-hour storm for construction conditions overtops the structure or the structure's spillway, then the Design Aids cannot be used. If multiple soil types are in the area draining to the structure, then the soil type with the smallest D_{15} for the appropriate depth should be used to determine the settling velocity, V_{15}, an average D_{15} should not be used.*
- *Note: SedCAD users please refer to the memo regarding the input of outlet structures.*

17. STABLE CHANNEL CALCULATIONS

- All channels and diversion ditches able to handle the 10-year storm event with non-erosive velocities of less than 5 feet per second during construction (use appropriate CN for disturbed areas) and post-construction (if velocity exceeds 5 ft/s, then permanent measures to reduce the velocity to a non-erosive rate must be provided)
- Rock check dams provided in temporary diversions
- Installation detail for erosion control blanket (ECB) or turf reinforcement matting (TRM) if ECBs or TRMs to be used

18. INLET PROTECTION

- Provided at all inlets
- Hay bales not used
- Steel posts and buried fabric shown for filter fabric inlet protection
- Inlet protection details provided for pre-paving and after roadways have been paved
- *Note: The Department recommends that an inlet not have more than one (1) acre draining to it.*

19. ENERGY DISSIPATORS/ OUTLET PROTECTION

- All outlets stabilized
- Riprap aprons sized appropriately
- Riprap detail shows apron dimensions and stone sizes for each pad or each pipe diameter
- Filter fabric installed beneath all riprap

20. FILL SLOPES AND/ OR EMBANKMENTS

- All slopes stabilized
- Slope drains designed in accordance with the BMP Handbook
- Slope drains provided where concentrated flows discharge onto a fill slope
- For all slopes steeper than 1.5:1, identification of stabilization practice (e.g., ECB, TRM)
- *Note: Measures, in addition to grassing or hydroseeding, include synthetic or vegetative matting, diversion berms, temporary slope drains, etc.*
- *Note: If retaining walls or fill slopes are to be constructed at the downstream property line, the Department recommends a 10' buffer to allow for construction and maintenance. If a 10' buffer is not provided, then provide permission from the adjacent property owner for possible land-disturbing activities on his property.*

21. UTILITY LINES

- Limits of disturbance include areas disturbed for water and sewer line installation
- Inlet protection provided at all existing inlets that receive flows from the disturbed areas; also add this as a note on the plans
- For all utility lines crossing WoS, narrative and detail showing sediment and erosion control measures provided on plans
- Note for construction entrances to be provided at all locations where construction traffic accesses a paved roadway

22. TMDL/ 303d IMPAIRED WATERBODIES

- List the nearest S.C.DHEC Water Quality Monitoring Station (WQMS) that the site's stormwater discharges drain to and the waterbody on which it is located: _____

- Qualitative and quantitative assessment (described in Section 3.4C of SCR100000), if nearest WQMS listed on the 2004 303(d) List of Impaired Waters **and** if site's stormwater construction discharges contain the pollutant of impairment **and** if site disturbs 25 or more acres
- Evaluation of selected BMPs if nearest WQMS listed on the 2004 303(d) List of Impaired Waters **and** if site's stormwater construction discharges contain the pollutant of impairment **and** if site disturbs less than 25 acres
- If Approved TMDL developed for nearest WQMS **and** if site's stormwater construction discharges contain the pollutant of impairment, showed that measures and controls on SWPPP met assumptions and requirements of TMDL (may need to contact Watershed Manager for assistance)
- *Note: Contact Department staff for guidance on selection of BMPs based on pollutant of impairment.*

23. NAVIGABLE WATERS

- Extra plan sheet showing impacts to navigable water and description of activity included if S.C. Navigable Waters (SCNW) crossing and separate SCNW permit has not been obtained for all activities
- *Note: For NOIs initially submitted to delegated entities, if project has SCNW crossing and if separate SCNW permit has not been obtained for this crossing, then this item will be reviewed by S.C. DHEC before NPDES coverage will be granted.*

24. OCRM REQUIREMENTS

- *Note: The following items only apply to those projects in the eight coastal counties.*
- If a project is within a half-mile of a receiving water body (RWB) or is one (1) or more acre in size, a digital project boundary must be submitted and approved by the OCRM GIS department. If OCRM's review of the project location indicates potential impacts to Coastal Resources on projects disturbing less than or equal to 0.5 acre but within ½ mile of a RWB, then OCRM staff will notify the applicant to submit an NOI. For projects which will disturb more than 0.5 acre and are located within ½ mile of a RWB, the NOI and other pertinent information must be submitted with the digital boundary. Please include the completed digital submittal form along with the electronic boundary. Go to http://www.scdhec.gov/environment/ocrm/permit/stormwater.htm for instructions.
- Any freshwater wetlands on the site must be identified and verified by the US Army Corps of Engineers (USACOE). A Corps wetland verification letter and corresponding signed, sealed and dated wetland plat must accompany the application package. The dates on the plat and verification letter must correspond. The Corp verification letter must reference the plat as an "accurate depiction" and not preliminary or approximation. The plat needs to identify whether or not the wetlands are jurisdictional or non-jurisdictional. Include USACOE permit number on the permit application if applicable.

  If non-jurisdictional wetlands are being impacted, a wetland impact statement as shown below must be completed along with an 8.5 x 11 inch map indicating the wetland acreages, amount and type of impacts. A USGS topographic map should also be submitted indicating the location of the project.

  "This project is proposed to impact ___ acres of Federally non-jurisdictional freshwater wetlands. These proposed impacts require approval under the SCCZM program. This plan will (fill, excavate, otherwise impact) (give individual wetland size by acres) for a total impact of (total acreage). Mitigation will be provided for these proposed impacts by (describe mitigation, giving acreages of preserved wetlands and/or buffers/credits)." If no mitigation is proposed, the notice needs to state as such.
- If saltwater/critical areas are located on the site, an OCRM approved delineation and plat must be included with the submittal package.
- If the proposed project is adjacent to saltwater/critical areas then a dock master plan will need to be submitted (if applicable) with the permit application package.
- Water and Sewer Certification requests if applicable.
- See item #15, 4th bullet of this checklist for additional water quality requirements in the Coastal Zone.

25. SITE PLANS CHECKLIST:

- *Note: The Department may require phased sediment and erosion control plans for large or complicated projects.*
- Location map with site outlined on first plan sheet (map should have enough detail to identify Surface Waters of the State within 1 mile of the site)
- North arrow and scale
- Property lines and adjacent landowners' names
- Legend
- Registered engineer's signed and dated seal

Updated 10/3/06

- Engineering Firm's Certificate of Authorization seal
- Existing and proposed contours for entire disturbed area
- Limits of disturbed area
- Locations of off-site material, waste, borrow, or construction equipment storage areas, excluding roll-off containers (*Note: Some off-site disturbed areas may require a separate application for NPDES coverage*)
- Location and identification of any stormwater discharges associated with industrial activity (not construction)
- Delineation of WoS, including wetlands (see checklist item 8)
- Easements
- Road profiles with existing and proposed ground elevations (if no contours are shown on the plans)
- Grassing and stabilization specifications (temporary and permanent)
- Construction sequence (implementation of all stormwater and sediment controls in the first phase of construction; ensure that basins, traps, ponds, etc. can be installed before the area draining to them is cleared and grubbed)
- Standard notes (see following page)
- Temporary and permanent control measures (provide details of all sediment and erosion control measures used; make sure the label or legend on the plans matches the name on the detail)
  Note: Maintenance requirements for each BMP should be listed on the detail.
  Note: If details from the BMP Handbook are used, then the inspection frequency must be changed to be in accordance with the new CGP (see Standard note 3).

Standard Notes

1. If necessary, slopes, which exceed eight (8) vertical feet should be stabilized with synthetic or vegetative mats, in addition to hydroseeding. It may be necessary to install temporary slope drains during construction. Temporary berms may be needed until the slope is brought to grade.
2. Stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than fourteen (14) days after work has ceased, except as stated below.
   - Where stabilization by the 14th day is precluded by snow cover or frozen ground conditions stabilization measures must be initiated as soon as practicable.
   - Where construction activity on a portion of the Site is temporarily ceased, and earth-disturbing activities will be resumed within 14 days, temporary stabilization measures do not have to be initiated on that portion of the Site.
3. All sediment and erosion control devices shall be inspected every seven (7) days. If site inspections identify BMPs that are damaged or are not operating effectively, maintenance must be performed as soon as practical or as reasonably possible and before the next storm event whenever practicable.

   OR

   All sediment and erosion control devices shall be inspected at least once every fourteen (14) calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater. If site inspections identify BMPs that are damaged or are not operating effectively, maintenance must be performed as soon as practical or as reasonably possible and before the next storm event whenever practicable.
4. Provide silt fence and/or other control devices, as may be required, to control soil erosion during utility construction. All disturbed areas shall be cleaned, graded, and stabilized with grassing immediately after the utility installation. Fill, cover, and temporary seeding at the end of each day are recommended. If water is encountered while trenching, the water should be filtered to remove any sediments before being pumped back into any waters of the State.
5. All erosion control devices shall be properly maintained during all phases of construction until the completion of all construction activities and all disturbed areas have been stabilized. Additional control devices may be required during construction in order to control erosion and/or offsite sedimentation. All temporary control devices shall be removed once construction is complete and the site is stabilized.
6. The contractor must take necessary action to minimize the tracking of mud onto paved roadway(s) from construction areas and the generation of dust. The contractor shall daily remove mud/soil from pavement, as may be required.
7. Residential subdivisions require erosion control features for infrastructure as well as for individual lot construction. Individual property owners shall follow these plans during construction or obtain approval of an individual plan in accordance with S.C Reg. 72-300 et seq. and SCR100000.
8. Temporary diversion berms and/or ditches will be provided as needed during construction to protect work areas from upslope runoff and/or to divert sediment-laden water to appropriate traps or stable outlets.
9. All waters of the State (WoS), including wetlands, are to be flagged or otherwise clearly marked in the field. A double row of silt fence is to be installed in all areas where a 50-foot buffer can't be maintained between the disturbed area and all WoS. A 10-foot buffer should be maintained between the last row of silt fence and all WoS.
10. Litter, construction debris, oils, fuels, and building products with significant potential for impact (such as stockpiles of freshly treated lumber) and construction chemicals that could be exposed to storm water must be prevented from becoming a pollutant source in storm water discharges.

Stormwater Management and Sediment and Erosion Control Plan Review Checklist For Design Professionals

Please indicate the location and page number(s) where each item below can be found in your SWPPP or supporting calculations. If an item is not applicable, put N/A. The Department reserves the right to modify this checklist at any time. The Coastal Zone consists of the following counties: Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper.

Checklist Completed by:
Printed name: Darrell Callaway Signature: DKC Date: 02-06-2009

1. **CURRENT COMPLETED APPLICATION FORM** Included
   - Original signatures
   - Signatory authority
   - All items completed and answered
   - Fee Schedule
   - *Note: State and local government projects are not exempt from the plan review fee of $100 per disturbed acre*
2. **COPIES OF PLANS AND CALCULATIONS** Attached
   - Plans stapled together
   - For projects that disturb more than 2 acres, less than or equal to 2 acres but are part of a larger common plan of development or sale (LCP), or more than 0.5 acre and within ½ mile of a receiving waterbody (RWB) in the Coastal Zone, ONE set of plans and supporting documentation (report, calculations, maps, etc.)
   - For projects that disturb less than or equal to 2 acres (not part of LCP and not within ½ mile of RWB in the Coastal Zone), THREE sets of plans and one set of supporting documentation [*Note: You may submit up to 2 additional sets of plans to be stamped for approval.*]
   - Supporting documentation tabbed (e.g., Maps, Pre-Development calculations) and pages numbered [no loose pages].
3. **LOCATION MAP** Storm Report
   - North arrow and scale
   - Outlined project location
   - Labeled road names
4. **PROJECT NARRATIVE** Storm Report
   - Scope of project outlined, including a brief description of pre- and post-development conditions
   - Summary table of pre- and post-development flows (at least 2- and 10-year, 24-hour storm events)
   - Existing flooding problems in the surrounding area described
   - Disturbed area calculations included for subdivision projects or LCP disturbing 1 or more acres
     - For subdivisions if the site is not to be mass-graded, the following formula should be used to determine the amount of disturbance:

       Amount of Disturbance = 2[Max Restricted Building Size][Number of Lots] + Right of Way (ROW) areas (ROW areas include clearing for roads, utilities, easements etc.)

     - If this equation is used, include a note on the plans stating: "The site is not to be mass-graded. Only 2 times the footprint is to be cleared as the lots are developed. The assumed disturbance on each lot is ____ sq. ft."
5. **USGS TOPOGRAPHIC MAP** Storm Report
   - Project boundary outlined
   - Route of runoff from site to nearest waterbody shown
   - Road names adjacent to site labeled
6. **SOILS INFORMATION** Storm Report
   - Project boundary outlined
   - Predominate soil types found at the site identified on the plans or on a separate map
   - *Note: Soils information is available from the Natural Resource Conservation Service through their website http://websoilsurvey.nrcs.usda.gov/app/*
7. **FLOODWAY MAPS/FEMA FLOOD INSURANCE MAP** Included
   - Project boundary outlined, if in close proximity to floodplain/ floodway
   - *Note: The Department does not regulate the placement of fill in floodplains. Please see your local city or county official.*

8. **WATERS OF THE STATE, INCLUDING WETLANDS** N/A
   - Delineation of all waters of the State (WoS), including wetlands, shown and labeled on plans (delineation not required if a 100-ft undisturbed buffer can be maintained between the WoS and all land-disturbing activities)
   - Additional, separate plan sheet that shows all WoS on the site and the impacted areas with a description of the activity(s), whether it is permanent or temporary, and any other relevant information
   - If impacts to WoS: outlined areas of impacts and labeled that no work can begin in this area until all necessary USACOE permits and SCDHEC 401 certifications have been obtained
   - Double row of silt fence provided in all areas where a 50' undisturbed buffer cannot be maintained between the disturbed area and the WoS
   - Minimum 10' maintenance buffer provided between last row of silt fence and WoS; or, if buffer not provided then statement from P.E. on plans indicating how silt fence will be installed and maintained without impacts to WoS
   - *Note: If there are proposed impacts to WoS, then it is advised that you contact USACOE (866-329-8187) and/or S.C. DHEC Water Quality Certification, Standards & Wetlands Programs Section (803-898-4300) to determine additional requirements before submitting the Notice of Intent (NOI).*
   - *Note: If WoS are to be impacted, work cannot be performed in these designated areas until all necessary permits have been acquired.*
   - *Note: If a USACOE permit is required for construction of or access to a temporary or permanent stormwater management structure, NPDES permit coverage cannot be granted until the USACOE permits and S.C. DHEC 401 Section certifications are obtained.*
   - *Note: The Department recommends a minimum 20-foot buffer between a sediment trap/basin and WoS.*

9. **HYDROLOGIC ANALYIS** Included - Report
   - Pre- and post-developed hydrologic analysis calculations for the 2- and 10-year, 24-hour storm events at each outfall point
   - Drainage area maps that clearly correspond to the calculations (pre- and post-development)
   - Analysis points for comparing runoff rates and the total drainage area analyzed do not change from pre- to post-development, although the immediate drainage areas contributing to each analysis point might shift
   - Post-development discharges less than pre-development discharges for each outfall point (if not, then see "Detention Waiver" section below)
   - Analysis performed using SCS 24-hour storm (Rational method is not acceptable)
   - Rainfall data from South Carolina DHEC Storm Water Management BMP Handbook (BMP Handbook) used in all calculations
   - *Note: The curve number for open water, marshes, etc. should be 98 to 100.*

10. **DETENTION ANALYSIS/DESIGN** Included - Report
   - **Analysis**
     - Pond routing using a volume-based hydrograph for the 2- and 10-year, SCS 24-hour storm event (Drain Edge, ICPR, HEC-1, SedCAD, HYDRAFLOW, etc. perform full pond routings, TR55 does not perform a full pond routing; rational method cannot be used)
     - Hydrologic and hydraulic calculations necessary to determine the impact of hydrograph timing modifications of the proposed land-disturbing activity, with and without the detention structure (results of analysis will determine the need to modify the detention design or eliminate the detention requirement - see note 2 below)
     - Inputs and outputs from analysis program
     - Summary table of the peak inflows, peak outflows, discharge velocities, and maximum water surface elevations (WSE) for the 2- and 10-year, 24-hour storm events for each detention structure
     - Stage-storage-discharge relationship for the outlet structure of each detention structure
     - If a rating curve for the outlet structure must be generated externally from the analysis program (Drain Edge, HEC-1, etc.), data and equations used to rate the outlet structure
     - As-built of existing detention pond if the site drains to an existing detention pond (see below)
     - *Note: SedCAD users please refer to the memo regarding the input of outlet structures*
     - *Note: The Department recommends using the 10% rule in performing analysis. The hydrologic analysis should be conducted for the larger drainage area, where the site in question encompasses 10% of the total drainage area. For example, if your site is 10 acres, then the hydrologic analysis should be performed at the point downstream where the contributing drainage area, including your 10-acre site, is approximately 100 acres.*
   - **Design**
     - Detail of outlet structure and cross-section of the dam/ berm or pond bank, including elevations and dimensions that correspond to the calculations
     - Orifice constructability considered (do not specify orifice diameters with increments of less than ¼")

- Maximum WSE for the 10-year storm event below the emergency spillway with 0.5-ft of freeboard between maximum WSE for the 10-year storm and the emergency spillway
- Maximum WSE for the 100-year storm event below the embankment with 0.5-ft of freeboard between maximum WSE for the 100-year storm and the embankment
- Dewatering time calculations for the 10-year storm event (dry ponds must drain completely within 72 hours)
- Bottom of all detention and retention ponds graded to have a slope of not less than 0.5%.
- If the pond is to be used for sediment control during construction, temporary horseshoe-shaped riprap berm in front of any low level outlets provided during construction and shown on the pond detail
- Permanent maintenance access to all permanent detention structures (easements may be needed for structures surrounded by lots)
- Infiltration systems designed in accordance with S.C. Reg. 72-307.C(11) [specify how items a-j have been addressed]
- *Note: Emergency spillways should not be built on fill slopes.*
- *Note: The Department recommends installation of a trash rack or other debris-screening device on all pond risers.*
- *Note: The Department recommends a maximum slope of 3:1 on pond embankments to allow for ease of maintenance.*
- *Note: The Department recommends installation of sediment forebays at each outfall into the detention/ sediment basin.*

11. AS-BUILTS N/A

- Provided for all previously approved detention ponds that will receive flows from new drainage areas
- Prepared by a South Carolina Licensed Land Surveyor
- Grades/ contours/ depths for pond
- Elevations and dimensions of all outlet structures, including:
  - Pipe and orifice inverts and diameters
  - Weir elevations and dimensions
  - Riser dimensions and elevations
  - Emergency spillway dimensions and elevations
  - Locations and inverts for all pipes discharging into the pond
- If the elevations or dimensions of the structures listed above do not match those used in the approved plans certification statement signed by the project's Registered Engineer indicating that the pond, as built, will function within all applicable standards provided [new analysis of the pond (routing) may be necessary]
- For projects located in the eight coastal counties: For any construction project permitted after September 1, 2008, as-built/record drawings will be required by DHEC-OCRM prior to stormwater permit closeout. Prior to the contractor requesting a final site inspection, one as-built drawing hard copy and 1 digital (scanned full sheets as .tif or .pdf document) copy must be provided to OCRM staff.
- *Note: As-built survey and /or analysis must be submitted and accepted by the Department before Notice of Termination (NOT) is submitted.*

12. PERMANENT STORMWATER MANAGEMENT STRUCTURE MAINTENANCE Included

- Signed agreement from the responsible party accepting ownership and maintenance of the structure
- Description of maintenance plan to be used
- Schedule of maintenance procedures (e.g., every 6 months)
- Detailed or manufacturer-specific maintenance items for proprietary control devices (oil-water separators etc.), underground detention structures, exfiltration systems and non-traditional stormwater controls (constructed wetlands, bioretention, etc.)
- Typical maintenance items to be addressed
  - Grass to be mowed
  - Trees to be removed from within the pond and on the embankment
  - Trash and sediment to be removed from inside of and around the pond outlet structure
  - Orifices to be cleaned and unclogged
  - Outlet pipe to be cleaned, inspected, and repaired
  - Sediment accumulation to be removed from pond
  - Pond bottom to be regraded to provide proper drainage towards the outlet discharge point
  - Energy dissipator to be cleaned and repaired
  - Emergency spillway, if applicable, to be inspected and repaired
  - Erosion on side slopes, if present, to be addressed
  - The Department must be notified in writing of any changes in maintenance responsibility for the stormwater devices at the site (include this statement in agreement)

- *Note: The Department recommends that the county, city, or other governing utility, which has the authority to accept the ownership and maintenance of a storm drainage system also accept the permanent stormwater management structure.*
- *Note: If the entity or person with maintenance responsibility changes, then a new maintenance agreement, signed by the new person responsible for maintenance, must be provided to the Department. If a new, signed maintenance agreement is not provided to the Department, then the entity/ person who signed the most recent maintenance agreement on file with the Department will be considered the responsible entity.*

13. **DISCHARGE POINTS** Plans

- Storm drainage or pond outfalls carried to an existing drainage outfall such as a pipe, ditch, etc.
- No new point discharges onto adjacent property where there was not a point discharge previously, unless written permission from the adjacent property owner is provided
- Level spreaders, plunge pools, etc. provided when the proposed outlet is near the property line and not directed to an existing outfall, such as a creek or ditch
- Twenty (20)-foot minimum buffer is provided between the property line and the discharge point
- Outlets shall not discharge on fill slopes

14. **DETENTION WAIVER** N/A

- *Note: If the 2- and 10-year, 24-hour post-developed flow rates exceed the pre-developed rates, waiver for detention may be granted in accordance with regulation 72:302(B) on a case-by-case basis*
- Justification and a written request, including the following statement: "*the increased flows will not have a significant adverse impact on the downstream/adjacent properties*"
- A project may be eligible for a waiver or variance of stormwater management for water quantity control if the applicant can demonstrate that:
  - The proposed project will have no significant adverse impact on the receiving natural waterway or downstream properties, or
  - The imposition of peak control requirements for rates of stormwater runoff would aggravate downstream flooding
- Waiver signed by the project's Professional Engineer
- *Note: See note in checklist item 10 regarding the 10% rule.*

15. **PERMANENT WATER QUALITY REQUIREMENTS** See Report

- Permanent water quality addressed (all projects or LCP that disturb 5 or more acres)
  - Wet ponds designed to catch the first ½" of runoff from the entire area draining to the pond and release it over at least a 24-hour period
  - Dry ponds designed to catch the first 1" of runoff from the entire area draining to the pond and release it over at least a 24-hour period
  - For areas not draining to a pond, show how permanent water quality requirements were addressed
- Projects disturbing less than five (5) acres but within one-half (1/2) mile of a receiving water body in the Coastal Zone must meet Section III.C.3.XIII.A of the Coastal Zone Management Program Refinements. Designs must show that the first ½ inch of runoff from the entire site or the first one (1) inch of runoff from the built upon area, whichever is greater, can be stored onsite.
- Waters of the U.S./State are not used for permanent water quality control (alternative means of treatment must be used if an existing pond is to be used for water quantity control).
- *Note: Other non-traditional stormwater controls such as Bioretention areas, constructed wetlands, etc. may be used. Consult the BMP Handbook for information on the design of these devices.*
- *Note: Pre-fabricated or proprietary treatment devices are approved on a case-by-case basis if adequate removal efficiency can be demonstrated. Provide pollutant removal efficiency data, preferably from a third-party testing company. Type of system selected should be based on the ability to remove the pollutants of concern in that area/situation (bacteria, hydrocarbons, etc.).*

16. **SEDIMENTOLOGY.** See Report

- Trapping efficiency calculations showing that all sediment basins/ traps are capable of achieving a sediment trapping efficiency of at least 80% for the 10-year, 24-hour storm event, if more than 10 disturbed acres drain to a common point (stream, lake, etc.)
- Sediment basins provide storage for the 10-year, 24-hour storm event for disturbed conditions or 3600 ft³/ acre draining to the basin, if more than 10 disturbed acres drain to a common point (stream, lake, property line, etc.)
- Sediment traps only used for drainage areas of less than 5 acres
- Sediment trap storage calculations, showing that 1800 ft³/ total acre draining to each trap is provided below the spillway
- If trapping efficiency calculations are required for sediment traps, then provide peak outflow, q_m, calculations. The 10-year, 24-hour storm event for construction conditions cannot overtop the trap's spillway

- Sediment basins and traps designed for total area draining to them
- Drainage area map outlining the area draining to each basin/ trap
- Copies of figures used to determine V_{ts} (SV-1) and trapping efficiency (ST-1, SB-1, SB-2). If Design Aids from BMP manual are used to determine trapping efficiencies
- Silt fence only used in areas with drainage areas of less than ¼ acre per 100 LF of fence and not used in areas with concentrated flows
- Clean-out stake, marked at ½ the designed sediment storage depth, provided in all sediment basins/ sediment traps
- *Note: Consult the BMP Handbook for information on the design of these and other devices*
- *Note: The Design Aids in the BMP Handbook cannot be used to determine trapping efficiencies for structures in series. If the flow for the 10-year, 24-hour storm for construction conditions overtops the structure or the structure has a spillway, then the Design Aids cannot be used. If multiple soil types are in the area draining to the structure, then the soil type with the smallest D_{15} for the appropriate depth should be used to determine the settling velocity. An average D_{15} should not be used*
- *Note: SedCAD users please refer to the memo regarding the input of outlet structures*

17. **STABLE CHANNEL CALCULATIONS** N/A
    - All channels and diversion ditches able to handle the 10-year storm event with non-erosive velocities of less than 5 feet per second during construction (use appropriate CN for disturbed areas) and post-construction if velocity exceeds 5 ft/s, then permanent measures to reduce the velocity to a non-erosive rate must be provided)
    - Rock check dams provided in temporary diversions
    - Installation detail for erosion control blanket (ECB) or turf reinforcement matting (TRM) if ECBs or TRMs to be used

18. **INLET PROTECTION** Plans
    - Provided at all inlets
    - Hay bales not used
    - Steel posts and buried fabric shown for filter fabric inlet protection
    - Inlet protection details provided for pre-paving and after roadways have been paved
    - *Note: The Department recommends that an inlet not have more than one (1) acre draining to it.*

19. **ENERGY DISSIPATORS/ OUTLET PROTECTION** Plans
    - All outlets stabilized
    - Riprap aprons sized appropriately
    - Riprap detail shows apron dimensions and stone sizes for each pad or each pipe diameter
    - Filter fabric installed beneath all riprap

20. **FILL SLOPES AND/ OR EMBANKMENTS**
    - All slopes stabilized
    - Slope drains designed in accordance with the BMP Handbook
    - Slope drains provided where concentrated flows discharge onto a fill slope
    - For all slopes steeper than 1.5:1, identification of stabilization practice (e.g., ECB, TRM)
    - *Note: Measures, in addition to grassing or hydroseeding, include synthetic or vegetative matting, diversion berms, temporary slope drains, etc.*
    - *Note: If retaining walls or fill slopes are to be constructed at the downstream property line, the Department recommends a 10' buffer to allow for construction and maintenance. If a 10' buffer is not provided, then provide permission from the adjacent property owner for possible land-disturbing activities on his property*

21. **UTILITY LINES** N/A
    - Limits of disturbance include areas disturbed for water and sewer line installation
    - Inlet protection provided at all existing inlets that receive flows from the disturbed areas; also add this note on the plans
    - For all utility lines crossing WoS, narrative and detail showing sediment and erosion control measures provided on plans
    - Note for construction entrances to be provided at all locations where construction traffic accesses a paved roadway

22. **TMDL/ 303d IMPAIRED WATERBODIES**
    - List the nearest S.C.DHEC Water Quality Monitoring Station (WQMS) that the site's stormwater discharges drain to and the waterbody on which it is located 18-17 Cheehessee Creek

- Qualitative and quantitative assessment (described in Section 3.4C of SCR100000), if nearest WQMS site on the 2004 303(d) List of Impaired Waters **and** if site's stormwater construction discharges contain the pollutant of impairment **and** if site disturbs 25 or more acres
- Evaluation of selected BMPs if nearest WQMS listed on the 2004 303(d) List of Impaired Waters **and** site's stormwater construction discharges contain the pollutant of impairment **and** if site disturbs less than 25 acres
- If Approved TMDL developed for nearest WQMS **and** if site's stormwater construction discharges contain the pollutant of impairment, showed that measures and controls on SWPPP met assumptions and requirements of TMDL (may need to contact Watershed Manager for assistance)
- *Note: Contact Department staff for guidance on selection of BMPs based on pollutant of impairment*

23 **NAVIGABLE WATERS** N/A

- Extra plan sheet showing impacts to navigable water and description of activity included if S.C. Navigable Waters (SCNW) crossing and separate SCNW permit has not been obtained for all activities
- *Note: For NOIs initially submitted to delegated entities, if project has SCNW crossing and if separate SCNW permit has not been obtained for this crossing, then this item will be reviewed by S.C. DHEC before NPDES coverage will be granted.*

24 **OCRM REQUIREMENTS**

- *Note: The following items only apply to those projects in the eight coastal counties.*
- If a project is within a half-mile of a receiving water body (RWB) or is one (1) or more acre in size, digital project boundary must be submitted and approved by the OCRM GIS department. If OCRM's review of the project location indicates potential impacts to Coastal Resources on projects disturbing less than or equal to 0.5 acre but within ½ mile of a RWB, then OCRM staff will notify the applicant to submit an NOI. For projects which will disturb more than 0.5 acre and are located within ½ mile of a RWB, the NOI and other pertinent information must be submitted with the digital boundary. Please include the completed digital submittal form along with the electronic boundary. Go to http://www.scdhec.gov/environment/ocrm/permit/stormwater.htm for instructions.
- Any freshwater wetlands on the site must be identified and verified by the US Army Corps of Engineers (USACOE). A Corps wetland verification letter and corresponding signed, sealed and dated wetlands plat must accompany the application package. The dates on the plat and verification letter must correspond. The Corp verification letter must reference the plat as an "accurate depiction" and not preliminary or approximation. The plat needs to identify whether or not the wetlands are jurisdictional or non-jurisdictional. Include USACOE permit number on the permit application if applicable.

  If non-jurisdictional wetlands are being impacted, a wetland impact statement as shown below must be completed along with an 8.5 x 11 inch map indicating the wetland acreages, amount and type of impacts. A USGS topographic map should also be submitted indicating the location of the project.

  "This project is proposed to impact 0 acres of Federally non-jurisdictional freshwater wetlands. These proposed impacts require approval under the SCCZM program. This plan will (fill, excavate, otherwise impact) (give individual wetland size by acres) for a total impact of (total acreage). Mitigation will be provided for these proposed impacts by (describe mitigation, giving acreages of preserved wetlands and/or buffers/credits)." If no mitigation is proposed, the notice needs to state as such.
- If saltwater/critical areas are located on the site, an OCRM approved delineation and plat must be included with the submittal package.
- If the proposed project is adjacent to saltwater/critical areas then a dock master plan will need to be submitted (if applicable) with the permit application package.
- Water and Sewer Certification requests if applicable.
- See item #15, 4th bullet of this checklist for additional water quality requirements in the Coastal Zone.

25 **SITE PLANS CHECKLIST:**

- *Note: The Department may require phased sediment and erosion control plans for large or complicated projects.*
- Location map with site outlined on first plan sheet (map should have enough detail to identify Subdivision or the State within 1 mile of the site)
- North arrow and scale
- Property lines and adjacent landowners' names
- Legend
- Registered engineer's signed and dated seal

- Engineering Firm's Certificate of Authorization seal
- Existing and proposed contours for entire disturbed area
- Limits of disturbed area
- Locations of off-site material, waste, borrow, or construction equipment storage areas, excluding rental of containers (*Note: Some off-site disturbed areas may require a separate application for NPDES coverage*)
- Location and identification of any stormwater discharges associated with industrial activity (not construction)
- Delineation of WoS, including wetlands (see checklist item 8)
- Easements
- Road profiles with existing and proposed ground elevations (if no contours are shown on the plans)
- Grassing and stabilization specifications (temporary and permanent)
- Construction sequence (implementation of all stormwater and sediment controls in the first phase of construction; ensure that basins, traps, ponds, etc. can be installed before the area draining to them is cleared and grubbed)
- Standard notes (see following page)
- Temporary and permanent control measures (provide details of all sediment and erosion control measures used, make sure the label or legend on the plans matches the name on the detail)
  Note: Maintenance requirements for each BMP should be listed on the detail
  Note: If details from the BMP Handbook are used, then the inspection frequency must be changed to be in accordance with the new CGP (see Standard note 3).

Standard Notes

1. If necessary, slopes, which exceed eight (8) vertical feet should be stabilized with synthetic or vegetative mats, in addition to hydroseeding. It may be necessary to install temporary slope drains during construction. Temporary berms may be needed until the slope is brought to grade.

2. Stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than fourteen (14) days after work has ceased, except as stated below.
   - Where stabilization by the 14th day is precluded by snow cover or frozen ground conditions stabilization measures must be initiated as soon as practicable.
   - Where construction activity on a portion of the Site is temporarily ceased, and earth-disturbing activities will be resumed within 14 days, temporary stabilization measures do not have to be initiated on that portion of the Site.

3. All sediment and erosion control devices shall be inspected every seven (7) days. If site inspections identify BMPs that are damaged or are not operating effectively, maintenance must be performed as soon as practical or as reasonably possible and before the next storm event whenever practicable.

   OR

   All sediment and erosion control devices shall be inspected at least once every fourteen (14) calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater. If site inspections identify BMPs that are damaged or are not operating effectively, maintenance must be performed as soon as practical or as reasonably possible and before the next storm event whenever practicable.

4. Provide silt fence and/or other control devices, as may be required, to control soil erosion during utility construction. All disturbed areas shall be cleaned, graded, and stabilized with grassing immediately after the utility installation. Fill, cover, and temporary seeding at the end of each day are recommended. If water is encountered while trenching, the water should be filtered to remove any sediments before being pumped back into any waters of the State.

5. All erosion control devices shall be properly maintained during all phases of construction until the completion of all construction activities and all disturbed areas have been stabilized. Additional control devices may be required during construction in order to control erosion and/or offsite sedimentation. All temporary control devices shall be removed once construction is complete and the site is stabilized.

6. The contractor must take necessary action to minimize the tracking of mud onto paved roadway(s) from construction areas and the generation of dust. The contractor shall daily remove mud/soil from the pavement, as may be required.

7. Residential subdivisions require erosion control features for infrastructure as well as for individual lot construction. Individual property owners shall follow these plans during construction or obtain approval of an individual plan in accordance with S.C Reg. 72-300 et seq. and SCR100000.

8. Temporary diversion berms and/or ditches will be provided as needed during construction to protect work areas from upslope runoff and/or to divert sediment-laden water to appropriate traps or stable outlets.

9. All waters of the State (WoS), including wetlands, are to be flagged or otherwise clearly marked in the field. A double row of silt fence is to be installed in all areas where a 50-foot buffer can't be maintained between the disturbed area and all WoS. A 10-foot buffer should be maintained between the last row of silt fence and all WoS.

10. Litter, construction debris, oils, fuels, and building products with significant potential for impact (such as stockpiles of freshly treated lumber) and construction chemicals that could be exposed to storm water must be prevented from becoming a pollutant source in storm water discharges.

Notice of Intent (NOI) for Stormwater Discharges from Large and Small Construction Activities, NPDES General Permit SCR100000

For official use only

File number: ___-___-___-___-___

Permit number: SCR10 ___ ___

Submittal package complete: _____ ___

Public Notice Start Date (OCRM only): _____

For official use only

Submission of an NOI constitutes notice that the entity identified in Section I intends to be authorized under SCR100000. Instructions on page 5.

Date: 10/15/2009

Project/ Site Name: Red Oaks Plaza Phase 1 County: Jasper

Do you want this project to be considered for the Expedited Review Program (ERP)? ☐Yes ☒No (See instructions.)

If yes, is the design of this project above regulatory requirements or Low Impact Development? ☐Yes ☐No

I. Project Information

Project Owner/ Operator (Company or person): DTG HOLDINGS LLC

Company EIN: 20-4866061 Phone: 843-725-5700 Fax: 843-725-5777

Mailing Address: PO Box 21299 City: Hilton Head Island State: SC Zip: 29925

Permit Contact (if owner is company): Andy Smith Phone:

Mailing Address: PO Box 21299 City: Hilton Head Island State: SC Zip: 29925

Email address (optional):

II. Property Information

A. Site Location (street address, nearest intersection, etc.): Red Oaks Lane access from SC Hwy 170

City/ Town (if in limits): Hardeeville Latitude: 32 ° 19 ' 42 " N Longitude: 80 ° 58 ' 6 " W

Tax map # (list all): 080-00-03-065

B. Property Owner: Same as above Phone:

Mailing Address: City: State: Zip:

III. Site Information

A. Disturbed area (to the nearest tenth of an acre): 18.4 acres Total area: 18.4 acres

B. Is this project part of a Larger Common Plan for Development or Sale (LCP)? ☒Yes ☐No

LCP/ Overall Development Name: Red Oaks Plaza Phase 1 Check here if this is the first phase. ☐

Previous state permit/ file number: 27-02-03-02 Previous NPDES coverage number: SCR10 NA

C. Start Date (MM/DD/YYYY): 04/01/2009 Completion Date: 07/01/2009

D. Is this site located on Indian Lands? ☐Yes ☒No If yes, name of reservation:

E. Type of Activity (check one): ☒Commercial ☐Industrial

☐Institutional ☐Residential: Single-family ☐Multi-use (Commercial & Residential) ☐Other:

☐Linear ☐Residential: Multi-family ☐Site Preparation (No new impervious)

F. Are there any flooding problems downstream of or adjacent to this site? ☐Yes ☒No

G. Has S.C. DHEC issued a Notice to Comply or Notice of Violation for this site or LCP? ☐Yes ☒No

H. Is any part of the property located inside an MS4 or urbanized area? ☐Yes ☒No

If yes, list the MS4 operator or urbanized area name.

I. List all state and federal environmental permits or approvals applied for or obtained for this site (e.g., RCRA).

IV. Waterbody Information

A. Nearest receiving waterbody(s) (RWB): Okatie River Distance to nearest RWB (feet): 4,500

Classification of nearest RWB: ORW Next/Nearest named RWB: Colleton River

B. 1. Waters of the U.S./ State	On the site?	Delineated/ identified?	Impacts?	Amount of impacts
a. Jurisdictional wetlands	☐Yes ☒No	☐Yes ☐No	☐Yes ☐No	___ Ac
b. Non-jurisdictional wetlands	☐Yes ☒No	☐Yes ☐No	☐Yes ☐No	___ Ac
c. Other Water(s) List:	☐Yes ☒No	☐Yes ☐No	☐Yes ☐No	___ Ac ___ Feet

2. If yes for impacts in B.1., describe each impact and activity, and list all permits (e.g., USACOE Nationwide permit, DHEC General Permit) and certifications that have been applied for or obtained for each impact.

C. **Impaired Waterbodies** (See instructions.)
List the nearest DHEC water quality monitoring station(s) [WQMS(s)] to which construction stormwater (SW) discharges will drain and the corresponding waterbody(s). 18-17 Waterbody(s): Chechessee Creek

1. Is this WQMS(s) listed on the most current 303(d) list for Impaired Waters? ☐Yes ☒No
   a. If yes for 1, list the impairment(s).
   b. If yes for 1, will the site's construction SW discharges contain any pollutant(s) causing the impairment(s)? ☐Yes ☐No
   c. If yes for b, list the impairment(s) affected by the pollutant(s) referenced in b.
   d. If yes for b, will use of the proposed BMPs ensure that the site's discharges will not contribute to or cause further water quality standard violations for the impairment(s) listed in c? ☐Yes ☐No
2. Has a TMDL(s) been developed for this WQMS(s)? ☐Yes ☒No
   a. If yes for 2, list the impairment(s).
   b. If yes for 2, has the standard been attained for all impairment(s)? ☐Yes ☐No
   c. If no for b, will the site's construction SW discharges contain any pollutant(s) causing the impairment(s)? ☐Yes ☐No
   d. If yes for c, are your discharges consistent with the assumptions and requirements of the TMDL(s)? ☐Yes ☐No

D. 1. **Are S.C. Navigable Waters (SCNW) on the site?** ☐Yes ☒No
   a. If yes for 1, list the name of the SCNW:
   b. If yes for 1, will any construction activities cross over or occur in, under, or through the SCNW? ☐Yes ☐No
   c. If yes for b, then describe activities.
   d. If yes for b, are the activities in SCNW covered under a DHEC General Permit or other DHEC permit? ☐Yes ☐No
   e. If no for d, has an SCNW permit been applied for or issued for the site? ☐Yes, for all activities ☐Yes, for some activities ☐No
   f. If yes for d or e, list permit number(s) and corresponding activities.

V. **Operator Information**

A. SWPPP Preparer: Ryan M. Smith S.C. Registration #: 24757
Company/ Firm: Thomas & Hutton Engineering Company S.C. COA #: 00295
Mailing Address: 50 Park of Commerce Way City: Savannah State: GA Zip: 31405
Phone: (Day) 912-234-5300 (Mobile) (Fax) 912-234-2950
Email address (optional):

B. Operator of Day-to-Day Site Activities (ODSA) (Company or person): Andy Smith
Mailing Address: PO BOX 21299 City: Hilton Head Island State: SC Zip: 29928
Phone: 843-379-5700 Fax: 843-379-5771
Site Contact (if ODSA is company): Phone:

VI. **Signatures and Certifications: DO NOT SIGN IN BLACK INK!**

A. One copy of the SWPPP, all specifications and supporting calculations, forms, and reports are herewith submitted and made a part of this application. I have placed my signature and seal on the design documents submitted signifying that I accept responsibility for the design of the system. Further, I certify to the best of my knowledge and belief that the design is consistent with the requirements of Title 48, Chapter 14 of the Code of Laws of SC, 1976 as amended, pursuant to Regulation 72-300 et seq., and in accordance with the terms and conditions of SCR100000. (This should be person identified in Section V.A.)
Check one: ☒Engineer ☐Tier B Surveyor ☐Landscape Architect

Ryan M. Smith		24757
Printed name of SWPPP Preparer	**Signature of SWPPP Preparer**	**S.C. Registration #**

B. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

I hereby certify that all land-disturbing construction and associated activity pertaining to this site shall be accomplished pursuant to and in keeping with the terms and conditions of the approved plans and SCR100000. I also certify that a responsible person will be assigned to the project for day-to-day control. I hereby grant authorization to the to S.C. Department of Health and Environmental Control (DHEC) and/or the local implementing agency the right of access to the site at all times for the purpose of on site inspections during the course of construction and to perform maintenance inspections following the completion of the land-disturbing activity. (See Section 122.22 of S.C. Reg. 61-9 for signatory authority information.)

Gregg Malphrus	Manager	2-5-09
Printed name of Project Owner/Operator	**Signature of Project Owner/ Operator**	**Date**

NPDES CGP Fee Schedule A

(All Counties EXCEPT Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper)

This schedule should not be used for projects reviewed by a delegated entity or MS4 operator.

If you are completing the fillable version of this form and if the **County** and **Disturbed Area** fields are correctly filled out on page 1 of this form, the fees in the right-hand column will be automatically entered based on your answers to the questions below. The schedule should be attached to DHEC Form 2617. Do not send payment in window envelope. DO NOT MAIL CASH. DHEC will notify the Project Owner/ Operator if the submitted check or credit card payment cannot be processed. The review clock will start when acceptable payment is received.

1. **Will this project or LCP (Item III.B) ultimately disturb 1 acre or more?** ☐Yes ☐No $_____.00
   If yes, enter $125 in right-hand column and proceed to item 2. If no, coverage under SCR100000 is not required; see BOW-SPWS for "Small Project Requirements in Non-Coastal Counties".
2. a. **Will this project or LCP ultimately disturb more than 2 acres?** ☐Yes ☐No
      If no, review fees are not initially required*; proceed to item 3.
   b. **If yes for 2a, is this project exempt from S.C. Reg. 72-300 et seq.?** ☐Yes ☐No
      If yes for 2b, review fees are not initially required*; proceed to item 3.
   If yes for 2a and no for 2b, enter review fees of $100/ **disturbed** acre (from item III.A on page 1) in right-hand column. The review fees cannot exceed $2000. Proceed to item 3. $_____.00

3. **Total Required Fees**
   Add the values in the right-hand column. Maximum required fees are **$2125**. DHEC will not review this project until all required fees are received. **Total Required Fees:** $_____.00

* If DHEC will review the project, then DHEC will notify the Project Owner/ Operator in writing within 20 business days of receipt of the complete NOI and request review fees.

Payment by Check:
Make sure check is signed and has a current date on it. If check is more than 30 days old, it may be returned. The check must be for the entire amount of required fees.

STAPLE CHECK HERE

Make check payable to S.C. DHEC.

Payment by Credit Card:
Fill out the information below. Make sure that the authorized signature is complete.
Name as it appears on Card: _____ Phone: _____
Mailing Address: _____ City: _____ State: ____ Zip: _____
Type of Card: ☐Visa ☐MasterCard ☐Discover Credit Card Number: _____
Expiration Date (MM/YYYY): _____ Credit Validation Value (3-digit # on back of card): ____
Authorized Signature: _____

For official use only: Invoice Number **08** _ _ _ _ _ _

NPDES CGP Fee Schedule 8
(Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper Counties)

This schedule should not be used for projects reviewed by a delegated entity or MS4 operator.

If you are completing the fillable version of this form and if the **County** and **Disturbed Area** fields are correctly filled out on page 1 of this form, the fees in the right-hand column will be automatically entered based on your answers to the questions below. This schedule should be attached to DHEC Form 2617. Do not send payment in window envelope. DO NOT MAIL CASH. DHEC will notify the Project Owner/ Operator if the submitted check or credit card payment cannot be processed. The review clock will start when acceptable payment is received and after the project is deemed consistent with the S.C. Coastal Zone Management Plan.

1. **Is this project located within ½ mile of a RWB (Item IV.A)?** ☐ Yes ☒ No
   If yes, proceed to item 2. If no, proceed to item 3.
2. a. **Will this project or LCP (Item III.B) ultimately disturb more than 0.5 acre?** ☐ Yes ☐ No — $_____.00
   If yes, enter $125 in right-hand column and proceed to 2b. If no, see OCRM-SPWS for "Small Project Requirements in Coastal Counties" and proceed to 2c.
   b. **If yes for 2a, is this project exempt from S.C. Reg. 72-300 et seq?** ☐ Yes ☐ No
   If yes for 2b, review fees are not initially required"; proceed to item 4.
   If yes for 2a and no for 2b, enter review fees of $100/ disturbed acre (from item III.A on page 1) in right-hand column. The review fees cannot exceed $2000. Proceed to item 4. — $_____.00
   c. **If no for 2a, does this project meet the criteria of categories a, d, or e listed in the "SCCZ Requirements" section of the instructions (page 6)?** ☐ Yes ☐ No
   If no for 2a and yes for 2c, enter $125 in the right-hand column. Then, enter review fees of $100/ disturbed acre (from item III.A on page 1) on this line in the right-hand column and proceed to item 4. — $_____.00 / $_____.00
3. a. **Will this project or LCP (Item III.B) ultimately disturb 1 or more acres?** ☒ Yes ☐ No — $ 125 .00
   If yes, enter $125 in right-hand column and proceed to 3b. If no, coverage under SCR100000 is not required; see OCRM-SPWS for "Small Project Requirements in Coastal Counties".
   b. **If yes for 3a, is this project exempt from S.C. Reg. 72-300 et seq.?** ☐ Yes ☒ No
   If yes for 3b, review fees are not initially required; proceed to item 4.
   If yes for 3a and no for 3b, enter review fees of $100/ disturbed acre (from item III.A on page 1) in right-hand column. The review fees cannot exceed $2000. Proceed to item 4. — $ 1840 .00
4. **Total Required Fees**
   Add the values in the right-hand column. Maximum required fees are $2125. DHEC will not review this project until all required fees are received. **Total Required Fees:** $ 1965 .00

* If DHEC will review the project, then DHEC will notify the Project Owner/ Operator in writing within 20 days of receipt of the complete NOI and request review fees.

Payment by Check:
Make sure check is signed and has a current date on it. If check is more than 30 days old, it may be returned. The check must be for the entire amount of required fees.

STAPLE CHECK HERE

RALPHRUS CONSTRUCTION COMPANY, INC. 135426
P.O. BOX 21299
HILTON HEAD ISLAND, SC 29926
PHONE (843) 379-8700 FAX (843) 379-8777

BB&T
BRANCH BANKING & TRUST COMPANY

Pay: ***************One thousand nine hundred sixty-five dollars and no cents

DATE	CHECK NO.	AMOUNT
February 5, 2009	135426	$******1,965.00

VOID AFTER 6 MONTHS

PAY TO THE ORDER OF
SC DHEC
BUREAU OF WATER/NPDES PERMIT ADM.
2600 BULL STREET
COLUMBIA, SC 29201-1797

⑈135426⑈ ⑆053201607⑆0005124686511⑈

Instructions

If you are uncertain whether you need to obtain coverage under the NPDES Stormwater Construction General Permit, SCR100000 (CGP), if you cannot access the websites listed on the NOI and instructions, or if you have any other questions, contact the Bureau of Water Stormwater Permitting Section (**BOW**) at (803) 898-4300 or OCRM Stormwater Permitting Section (**OCRM**) at (843) 953-0200. Please see the Bureau of Water, Stormwater Permitting website (**BOW-SPWS**: http://www.scdhec.gov/stormwater) for guidance and additional information regarding the CGP. For additional information about and requirements for projects in the S.C. Coastal Zone (**SCCZ**—Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper counties), please see the Office of Ocean and Coastal Resource Management, Stormwater Permitting website (**OCRM-SPWS**): http://www.scdhec.gov/environment/ocrm/permit/stormwater.htm.

Who Must File an NOI:

- The Owner/ operator of a single project or larger common plan for development or sale (LCP—see item III.B of instructions) that will ultimately disturb 1 acre or more (all counties). If S.C. Department of Transportation (SCDOT) is the Project Owner/ Operator, this NOI form (Form 2617) should not be used.
- In the **SCCZ**, the Owner/ operator of a single project or LCP that is within ½ mile of a receiving waterbody (RWB—see item IV.A of the instructions) and will ultimately disturb more than 0.5 acre.
- In the **SCCZ**, the Owner/ operator of a single project or LCP that is within ½ mile of a receiving waterbody (RWB—see item IV.A of the instructions) and meets the criteria of categories **a-e** listed in the "**SCCZ** Requirements" section below.
- See the **BOW-SPWS** for "Small Project Requirements in Non-Coastal Counties" and **OCRM-SPWS** for "Small Project Requirements in Coastal Counties".

Where to File:

See the **BOW-SPWS** for a current list of the areas that are reviewed by Municipal Separate Storm Sewer System (MS4) operators and entities that have delegated review authority. For projects in these areas, the initial submittal should be made to the MS4 operator; if initial submittal is made to DHEC for projects in these areas, the review process may be delayed. In the **SCCZ**, for projects in MS4 areas, the initial submittal should be made concurrently to OCRM and appropriate MS4 operator. Please contact the appropriate entity for additional information and requirements; for example, the MS4 operator may require that a different application form be submitted. If a project will cross jurisdictional boundaries (e.g., sewer line in Greenville County and the city of Mauldin), then submittals to all appropriate MS4 operators, delegated entities, and DHEC must be coordinated.

For projects in the **SCCZ**, see **OCRM-SPWS** for submittal locations.

S.C. DHEC-OCRM
104 Parker Drive
Beaufort, S.C. 29906

S.C. DHEC-OCRM (Main Office)
1362 McMillan Ave., Suite 400
Charleston, S.C. 29405

S.C. DHEC-OCRM
927 Shine Ave.
Myrtle Beach, S.C. 29577

All other areas: S.C.DHEC—Stormwater Permitting Section
2600 Bull Street
Columbia, SC 29201-1708

Submittal Package for BOW and OCRM:

- You must include the original, signed NOI form, appropriate fee schedule (A or B) with required fees, one (1) copy of the Stormwater Pollution Prevention Plan (SWPPP), and one (1) copy of all other supporting documentation with the initial submittal. For projects in the non-coastal counties disturbing greater than or equal to 1 acre and less than or equal to 2 acres, three (3) copies of the SWPPP and one (1) copy of supporting documentation can be submitted with the initial submittal.
- For projects reviewed by **BOW**, the 20-day review period does not begin until a complete NOI has been received by DHEC. For projects reviewed by **OCRM**, the 20-day review period does not begin until a complete NOI has been received by DHEC and the project has been deemed consistent with the S.C. Coastal Zone Management Plan.
- For projects ultimately disturbing more than 2 acres, the checklist must be completed and attached. In the **SCCZ**, for projects ultimately disturbing 1 acre or more, projects ultimately disturbing more than 0.5 acre within ½ mile of a RWB, and for projects disturbing less than or equal to 0.5 acre within ½ mile of a RWB and meeting the criteria of categories **a**, **d**, or **e** (see the "**SCCZ** Requirements" section below), the checklist must be completed and attached. See **BOW-SPWS** or **OCRM-SPWS** for the most current version of the checklist.

S. C. Coastal Zone (SCCZ) Requirements:

For projects in the following categories (a-e) that are located within ½ mile of a RWB, a registered engineer, landscape architect, or Tier B surveyor must prepare the SWPPP. For other projects (not included within a-e as

follows) that are located within ½ mile of a RWB and will ultimately disturb more than 0.5 acre but less than or equal to 2 acres and, a licensed professional is not required to prepare the SWPPP

a. All commercial buildings, which will handle hazardous chemicals (including gasoline, kerosene, diesel fuel, nutrients, etc.).
b. All commercial buildings and parking/runway areas with greater than 1 acre of impervious surface (building and parking).
c. All commercial buildings and parking/runway areas with greater than 0.5 acre of impervious surface located directly adjacent to a saltwater (critical) area.
d. All residential subdivision developments located directly adjacent to a saltwater (critical) area.
e. All projects impacting Geographical Areas of Particular Concern (GAPC—see definition in the Critical Area Permitting Regulations: http://www.scdhec.gov/environment/ocrm/regs/docs/CARegs_0606.pdf).

Project/ Site Name: The Project/ Site Name should be a unique or distinguishing name (e.g., not Proposed Subdivision). DHEC should be notified in writing if the Project/ Site Name changes.

County: If the project is in multiple counties, list the county in which the majority of the site is located. If part of the project is in the **SCCZ**, then list the coastal county in which the majority of the site is located and submit the project to the appropriate OCRM office; see the "Where to File" section. List the other counties in which the site is located in the narrative.

Expedited Review Program (ERP): For additional information about ERP, see the ERP website (http://www.scdhec.gov/environment/water/swerpexpedite.htm). To determine if the project design is considered to be above regulatory requirements or Low Impact Development, see the "Expedited Review Standard Operating Procedures" document. DHEC will notify the Project Owner/ Operator if the project is selected for review in the ERP. There are additional required fees for participation in this program; these ERP fees should not be submitted until DHEC has notified the Project Owner/ Operator that the project was selected for participation in the ERP. In the **SCCZ**, please note that projects impacting GAPCs are not eligible for participation in ERP.

I. Project Information

- List the complete, legal name of the Project Owner/ Operator (PO/O); do not list the D/B/A (Doing Business As) name. NPDES coverage under SCR100000 will be issued to the PO/O. If S.C. Department of Transportation (SCDOT) is the PO/O, this NOI form (Form 2617) should not be used.
- The Company EIN is the Employer Identification Number as established by the U.S. Internal Revenue Service; the EIN is commonly referred to as the taxpayer ID. The Company EIN must be for the company listed as the PO/O. If the company does not have an EIN (e.g., single member LLC, sole proprietorship), **DO NOT** list a Social Security number. If the PO/O is not a company, then do not list a Company EIN.
- Enter the complete mailing address of the PO/O. If an email address is entered, DHEC may contact the PO/O via email.
- If the PO/O is a company, then a Permit Contact person should be listed. This can be someone other than the person that has signatory authority for the company. Also, enter the complete mailing address for the Permit Contact person. This can be different from the mailing address entered for the PO/O.
- The PO/O is responsible for all portions of the site until a Notice of Termination (NOT) or Transfer of Ownership form is submitted.

II. Property Information

A. List the site address. If the site address is unknown, list the road name(s) on which the site is located, the nearest intersection, or other detailed description of the site location. List a city/town only if the site is within the city/ town limits. See the following website for assistance in obtaining latitude/ longitude coordinates: http://www.epa.gov/tri/report/siting_tool/index.htm. Latitude (from 32° to 35°) and longitude (-78° to -83°) should be for the center of the site. Minutes (') and seconds (") should be from 0 to 59.

B. List the complete, legal name of the current Property Owner(s) of the site. Enter the daytime phone number for the Property Owner. Also, enter the complete mailing address for the Property Owner. NPDES coverage will be issued to the PO/O (Section I), not the Property Owner, unless same entity. If there are multiple Property Owners, then attach additional sheets with all information in Section II.B of the NOI listed.

III. Site Information

A. Enter the disturbed area for the project and the total site area. The total and disturbed areas must be **rounded to the nearest tenth of an acre**. For subdivisions, if the exact build-out is not known, the disturbed area can be estimated using the following equation:
Disturbed area= 2(Maximum Footprint of House)(# of lots) + Road/ Right-of-Way areas + Other easements/ disturbance.
DHEC must be notified in writing if the actual disturbed area exceeds the disturbed area on the NOI.

B. The plan in LCP is "broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot." (63 Federal Register No. 128, July 6,

1998, p. 36491] For example, if master calculations have been prepared and/ or submitted for an entire site, then all phases and parcels at that site would be considered part of an LCP. If the site is part of a subdivision, industrial park, commercial park, etc., then it is considered to be part of an LCP.

List a unique, distinguishing LCP/ Overall Development name. This name should not reference a specific phase. This LCP/ Overall Development name should also be listed on all NOIs for future projects that are part of this LCP, including subsequent phases. Check the box if this is the first phase of the LCP. List the previous state permit/ file number and previous NPDES coverage number (**DO NOT** enter SCR100000). If the previous state/ file number or NPDES coverage number is not known, contact **BOW** or **OCRM** for assistance.

C. List the estimated start and completion dates of the construction activity.

E. Select **ONE** activity type that most nearly describes the proposed development of the site. "Institutional" includes schools and other publicly owned projects, except linear projects. "Site Preparation" includes clearing, grubbing, and grading only; no new impervious areas should be proposed if this activity type is selected. If none of the activity types describe the development, then select "Other" and list the activity.

F. If yes, then explain the extent of the flooding problems and the effect of this project on those problems in the project narrative.

G. Select yes if DHEC has issued a Notice to Comply or Notice of Violation for the site or any site within the LCP. Provide additional information about the Notice (e.g., Order number) and a copy of correspondence with DHEC regarding the Notice.

H. If any part of the property is located inside an urbanized area or Municipal Separate Storm Sewer System (MS4), then select yes and list the MS4 operator. Urbanized area boundary maps are available at http://cfpub.epa.gov/npdes/stormwater/urbanmaparesult.cfm?state=SC. See the following website for information about MS4s: http://www.scdhec.gov/environment/water/swsms4.htm.

I. See §122.21(f) of S.C. Regulation 61-9 (http://www.scdhec.gov/environment/water/regs/61-9.pdf) for a list of permits, approvals, and programs that should be considered. If the provided information is inaccurate, NPDES coverage may be invalid.

IV. Waterbody Information

A. The nearest receiving waterbody (RWB) is the nearest waters of the State (WoS—see definition in §122.2 of S.C. Regulation 61-9—http://www.scdhec.gov/environment/water/regs/61-9.pdf) to which the site's stormwater discharges will drain. The nearest RWB must be listed in reference to a named waterbody if the RWB is unnamed. For example, if the site's stormwater discharges drain to a stream on the site, then the nearest RWB would be the stream. If the stream is not named, then determine the nearest named waterbody (e.g., Grove Creek) into which the stream will flow and list the nearest RWB as a tributary to the named waterbody (e.g., Tributary to Grove Creek). Then, the next/ nearest named RWB would be Grove Creek. If the site's stormwater discharges drain to multiple waterbodies, then list all such waterbodies; attach additional sheets, if necessary.

See S.C. Regulation 61-69 (http://www.scdhec.gov/environment/water/regs/61-69.pdf) for a list of classifications of waterbodies within S.C. If the nearest RWB is unnamed, then search the document for the nearest named RWB. If the nearest, named RWB is not listed, then continue searching the document for the next, named waterbody, proceeding downstream from the site. For example, a site in Anderson County drains to a tributary of Hombuckle Creek, then to Hombuckle Creek, then to Middle Branch, and then to Brushy Creek/ Big Brushy Creek. First, search the document for Hombuckle Creek, then Middle Branch, then Brushy Creek. Because there are 3 listings for Brushy Creek, the next, named waterbody (Saluda River) must be determined. Note that the county for this record for Brushy Creek is listed as Pickens because the headwaters of Brushy Creek are in Pickens County. Therefore, the classification of the tributary to Hombuckle Creek is "FW—Freshwaters".

B. 1. Complete the "On the Site?" column for items a-c. If yes is selected for that column, then the next 3 columns must be completed. If there are other waters of the U.S./ State (WoS) on the site not listed in items a and b (e.g., stream, river, lake, pond), then list those in item c.

Delineation means identification by U.S. Army Corps of Engineers (USACOE) or wetlands consultant. Also, see checklist items 8 and 24 for information about delineation requirements. In the **SCCZ**, WoS must be verified by USACOE. If there are WoS within 100' of the disturbed area that were not delineated/ identified, then explain this in the narrative; this includes WoS that are not on the project site but are within 100' of the disturbed area.

If construction activities will occur in and/ or will impact WoS, then select yes for "Impacts?" and list the amount of impacts to WoS. Provide an additional, separate plan sheet that shows all WoS on the site and the impacted areas. If there are proposed impacts to WoS, please contact USACOE (866-329-8187) and S.C. DHEC Water Quality Certification, Standards & Wetlands Programs Section (803-898-4300) to determine additional requirements before submitting this NOI. In the **SCCZ**, also contact S.C. DHEC-

OCRM Wetlands Section (843-953-0200). Please note that it is the Project Owner/ Operator's responsibility to ensure that all WoS are shown and identified in the SWPPP.

2. USACOE is U.S. Army Corps of Engineers. If there are impacts to waters of the U.S./ State (should be listed in item IV.B.1), then list all permits and certifications that have been applied for or obtained for those impacts. Describe the activity(s), whether the impact is permanent or temporary, and any other relevant information. Provide a copy of all permits and certifications for and correspondence with USACOE and DHEC for the impacts. Make sure to include all plats referenced in the permits or correspondence.

C. Maps showing WQMS locations are available at the following website for each watershed: http://www.scdhec.gov/environment/water/tmdl/index.htm - 303d. In the **SCC2**, list the nearest upstream and downstream DHEC WQMS(s) and corresponding waterbody(ies).

1. See the following website for the most current 303(d) List for Impaired Waters and related information: http://www.scdhec.gov/environment/water/tmdl/index.htm#303d. To search this document to determine whether a WQMS is listed, select "Edit" from the top toolbar. Then, select "Find". Enter the WQMS exactly as listed on the map and hit enter. If none of the WQMS(s) are found, then select no for item IV.C.1 and proceed to item IV.C.2. If any of the WQMS(s) are found within the document, then select yes and proceed to item IV.C.1.a.
   a. List the cause(s) of the impairment (see last column labeled "CAUSE") for the WQMS(s) and proceed to item IV.C.1.b.
   b. DHEC has determined that construction SW discharges are expected to contain pollutants causing the following impairments: TURBIDITY, BIO (Macroinvertebrate), TP (Total Phosphorus), and TN (Total Nitrogen). You should carefully evaluate whether the site's constructions SW discharges will contain any pollutants causing other impairments, not explicitly listed above. You should also consider previous land uses at the site in answering this question. For example, if the previous land use was a copper processing facility and the impairment at the nearest WQMS is copper, then you should carefully evaluate whether the site's construction SW discharges would contain copper. If this question is answered yes and the disturbed area is less than 25 acres, then provide an evaluation of the site's proposed Best Management Practices (BMPs) as described in section 3.4.C.2(c) of the CGP. If this question is answered yes and the disturbed area is greater than or equal to 25 acres, then provide a written qualitative and quantitative assessment of the site's proposed BMPs as described in section 3.4.C.2(c) of the CGP. See item 22 on the checklist.
   c. Of the impairments listed in item IV.C.1.a, list the impairments that may be affected by pollutants in the site's construction SW discharges. See the instructions for item IV.C.1.b for impairments, which DHEC has determined will be affected by pollutants in construction SW discharges.
   d. If the answer to this question is no, then the site is not eligible for coverage under the CGP.
2. See the following website for a list of Approved S.C. Total Maximum Daily Loads (TMDLs): http://www.scdhec.gov/environment/water/tmdl/tmdlsc.htm. To search this website for a WQMS, select "Edit" from the top toolbar. Then, select "Find on this Page". Enter the WQMS exactly as listed on the map and hit enter. If none of the WQMS(s) are found, then select no for item IV.C.2 and proceed to item IV.D. If any of the WQMS(s) are found within the document, then select yes and proceed to item IV.C.2.a.
   a. List the cause(s) of the impairment/ parameter(s) of concern and proceed to item IV.C.2.b.
   b. See the following website for a list of stations at which the standard has been attained for a specific parameter of concern: http://www.scdhec.gov/environment/water/tmdl/docs/2004tmdl_wqts.pdf. To search this document for a WQMS, select "Edit" from the top toolbar. Then, select "Find". Enter the WQMS exactly as listed on the map and hit enter. If any of the WQMS(s) are found, check the "TMDL Pollutant" column to determine for which impairment(s) the standard has been attained. If the standard has not been attained for all impairments, then select no and proceed to item IV.C.2.c. If the standard has been attained for all impairments for all WQMS(s): select yes and proceed to item IV.D. If none of the WQMS(s) are found, then the standard has not been attained for any impairment(s) for the WQMS(s): select no and proceed to item IV.C.2.c.
   c. DHEC has determined that construction SW discharges are expected to contain pollutants causing the following impairments: TURBIDITY, BIO (Macroinvertebrate), TP (Total Phosphorus), and TN (Total Nitrogen). You should also consider previous land uses at the site in answering this question.
   d. If the answer to this question is no, then the site is not eligible for coverage under the CGP.

D. 1. See http://www.scdhec.gov/environment/water/navwater.htm for the definition of SCNW and other information related to SCNW. Or, contact S.C. DHEC Water Quality Certification, Standards & Wetlands Programs Section at (803) 898-4300 for assistance determining the navigability of the waters on your site or with questions related to SCNW.

a. List the name of the SCNW. If the SCNW is not named, then provide a description that references the nearest, named waterbody (e.g., tributary to Grove Creek).
b. Indicate whether any construction activities will cross or otherwise impact SCNW. This includes temporary and permanent crossings with roads, utility lines, etc.
c. Describe all of the activities that will cross SCNW (e.g., road crossing, utility line crossing).
d. See the following website for a list of DHEC General Permits for activities in some SCNW: http://www.scdhec.gov/environment/water/docs/gp/gp.xls. See the "Notes" column to determine what types of activities are covered under each permit.
e. If an SCNW permit has not already been applied for or issued for all of the activities in SCNW for this site, then those activities and conditions can be addressed during the review of the SWPPP, and a separate State Navigable Waters permit is not required. Provide an additional plan sheet that shows plan and profile views (drawn to scale) of the SCNW and associated activities; include a description of the proposed activities on this plan sheet.
f. List each permit number and the corresponding activities that are covered under each permit.

V. Operator Information

A. SWPPP is the Stormwater Pollution Prevention Plan. Enter N/A for the S.C. Registration # if the SWPPP preparer is not a registered professional in S.C. (Engineer, Tier B Surveyor, or Landscape Architect). For projects disturbing more than 2 acres, the SWPPP preparer must be one of the listed professionals or federal government employee as described in Title 40, Chapter 22. In the **SCCZ**, for projects that are located within ¼ mile of a RWB, disturbing less than 2.0 acres and meeting the criteria of categories **a-e** (see "SCCZ Requirements" section above), the SWPPP preparer must be one of the listed professionals or federal government employee as described in Title 40, Chapter 22.

S.C. COA is S.C. Certificate of Authorization. See the following websites for information about COA requirements for Landscape Architecture firms (http://www.dnr.sc.gov/land/LandscArch/LAlicense.html) and Engineering and Surveying firms (http://www.lli.state.sc.us/POL/Engineers/). Enter N/A for S.C. COA if the firm is not required to have a COA. Enter the complete mailing address for the SWPPP Preparer. If an email address is listed, DHEC may contact the SWPPP Preparer via email.

B. See Appendix A of the CGP for the definition of "Operator". This can be the same entity as the Project Owner/ Operator. List the complete mailing address and daytime phone number and fax number for the ODSA. If there are multiple ODSAs, then attach additional sheets with all information in Section V.B of the NOI listed. If the ODSA is a company, then a person should be listed as the Site Contact. List the daytime phone number of the Site Contact. ODSAs must be co-permittees with the Project Owner/ Operator or have their own separate NPDES coverage under the CGP. If this section is left blank, the PO/O will be considered to be the ODSA.

VI. Certifications

DO NOT SIGN IN BLACK INK! The NOI submitted to DHEC must have original signatures for VI.A and VI.B.

A. The same registered professional must sign and seal the NOI form, SWPPP, calculations, and supporting documentation.
B. If the Project Owner/ Operator is a company, print the name of the person who is signing the NOI for the Project Owner/ Operator. A person with signatory authority for the Project Owner/ Operator must sign the application. The SWPPP Preparer cannot sign the application for the Project Owner/ Operator. The SWPPP, all reports, including monthly reports, and any information requested by DHEC must be signed by a person with signatory authority for the Project Owner/ Operator or a duly authorized representative. See below for a summary and §122.22 of S.C. Reg. 61-9 (Appendix C of the CGP) for complete information about signatory authority requirements.
   - Corporation: A responsible corporate officer (e.g., president, vice-president, certain managers)
   - Partnership or Sole Proprietorship: A general partner or the proprietor, respectively
   - Municipality, State, Federal or Other Public Agency: Principal executive officer or ranking elected official

Fee Schedules

Make sure to answer all applicable questions on the appropriate Fee Schedule. If you are completing the online fillable version of the NOI, the cursor should automatically move to the next question that needs to be answered until all applicable questions have been answered. On Fee Schedule B, as appropriate, you should answer question 2 or question 3. DO NOT ATTEMPT TO ANSWER BOTH QUESTIONS.

Office Mechanics and Filing

This form and supporting documentation will be kept in the Central Office files (hard copy or digitized copy) in accordance with the Retention Schedule.

Permanent Stormwater System Maintenance and Responsibility Agreement

Under the South Carolina Stormwater Management and Sediment Reduction Act of 1991 (48-14-10, et. seq.), Regulation 72-308 requires the Landowner, its successors and assigns, including any homeowners association, shall adequately maintain the stormwater management/Best Management Practices (BMP) facilities. This includes all pipes and channels built to convey stormwater to the facility, as well as all structures, improvements, and vegetation provided to control the quantity and quality of the stormwater. Adequate maintenance is herein defined as good working condition so that these facilities are performing their design functions.

The Department of Health and Control (DHEC)/Office of Ocean and Coastal Resource Management (OCRM) recommends that The Landowner, its successors and assigns, shall inspect the stormwater management/BMP facility regularly. The purpose of the inspection is to assure safe and proper functioning of the facilities. The inspection shall cover the entire facilities, berms, outlet structure, pond areas, access roads, etc.

The Landowner, its successors and assigns, hereby grant permission to the DHEC/OCRM, its authorized agents and employees, to enter upon the Property and to inspect the stormwater management/BMP facilities whenever DHEC/OCRM deems necessary. The purpose of inspection is to follow-up on reported deficiencies and/or to respond to citizen complaints. DHEC/OCRM shall provide the Landowner, its successors and assigns, copies of the inspection findings and a directive to commence with the repairs if necessary.

The Landowner, its successors and assigns, will perform the work necessary to keep these facilities in good working order as appropriate. In the event a maintenance schedule for the stormwater management/BMP facilities (including sediment removal) is outlined on the approved plans, the schedule will be followed.

This Agreement imposes no liability of any kind whatsoever on DHEC/OCRM and the Landowner agrees to hold DHEC/OCRM harmless from any liability in the event the stormwater management/BMP facilities fail to operate properly.

I accept responsibility for ownership and proper maintenance of the stormwater system (pond, swales, etc.) on the Red Oaks Plaza Phase 3 **site per the approved maintenance plan. I will complete any necessary repairs and/or preventive maintenance procedures in a timely manner to ensure proper functioning as a stormwater management device(s).**

It is my understanding that the maintenance plan may be amended/revised at any time by DHEC/OCRM, and I will abide by any prescribed changes.

I will continue to own and maintain the pond until DHEC/OCRM is notified in writing of a transfer in ownership and maintenance responsibility. The notification will include a date for the transfer of responsibility and a letter of acceptance from the new owner.

I understand that failure to adhere to the signed maintenance agreement may result in fines of up to $1,000.00 per day, per violation and /or the institution of a court action.

Signature of Owner/Agent	Printed Name of Owner/Agent	Date
	Gregg A. Malphrus	2-9-09

Mailing Address	City/State/Zip	Phone Number
P.O. Box 21291	Hilton Head, SC 29925	843-379-5700

Julie A Duncan

Notary Stamp/Signature/Date

JULIE A. DUNCAN
Notary Public, Effingham County, GA
My Commission Expires October 16, 2010

RED OAKS PLAZA
PHASE 3
PERMANENT STORMWATER MANAGEMENT STRUCTURES MAINTENANCE PLAN

The following Maintenance Plan is submitted to OCRM as a proposed program for the maintenance of permanent stormwater facilities at Red Oaks Plaza Phase 3. DTG Holdings, LLC is the owner and developer of this project. Eventually, ownership of such common areas, amenities and other facilities, including the responsibility to carry out this Maintenance Plan will transfer to other property owners.

All structures located within Common Area and/or storm drainage easements will be maintained by the Developer until such a time as the ownership is transferred.

MOWING

Schedule

Based on seasonal need and grass type. Some grasses such as love-grass do not require regular mowing. Typically, mowing will occur at least monthly in the growing season (April-September).

Method

Conventional mowing equipment shall be used for all facilities within Common Areas and Easements where necessary.

TREE REMOVAL

Schedule

Removed at time of initial clearing and grading process

Method

Conventional clearing heavy duty equipment shall be used on entire site as shown in plans within limits of construction

UNDERGROWTH REMOVAL

Schedule Annually.

Method Conventional mowing equipment as determined by grass type.

TRASH REMOVAL FROM STORMWATER STRUCTURES

Schedule Monthly or as observed, whichever is more frequent. Schedule may be adjusted to actual need.

Method Hand removal and/or vacuum equipment as needed for actual circumstance.

SEDIMENT REMOVAL FROM STRUCTURES

Schedule Weekly prior to issuance of notice of termination (NOT) or as required under the construction general permit (CGP). Annually subsequent to NOT issuance. Schedule may be adjusted to more frequent maintenance if buildup occurs at a faster than expected rate.

Method Third-party inspections of all required best management practices (BMPs) per the CGP. Repairs needed are reported to Owner or Owners Association responsible party as appropriate. Method of repair will be appropriate to the need.

POND MAINTENANCE

Schedule Grading of lagoon bottom annually or as needed to establish proper drainage. Erosion of banks to be addressed as needed.

Method Backhoe equipment or other conventional equipment as needed for lagoon bottoms and banks for proper slopes. Permanent seeding to be used after regarding process.

Stormwater Management Report

FOR

Red Oaks
Phase 3
Hardeeville, SC

Prepared For

DTG Holdings, LLC.

Prepared By

Thomas & Hutton Engineering Co.
50 Park of Commerce Way / Savannah / GA / 31405
935 Houston Northcutt Blvd. / Mt. Pleasant / SC / 29464
1350 Farrow Parkway / Myrtle Beach / SC / 29577
219 Station Road, Suite 101 / Wilmington / NC / 28405
116 West Palm Plaza Drive / Brunswick / GA / 31523

J-21099

Date: February 6, 2009

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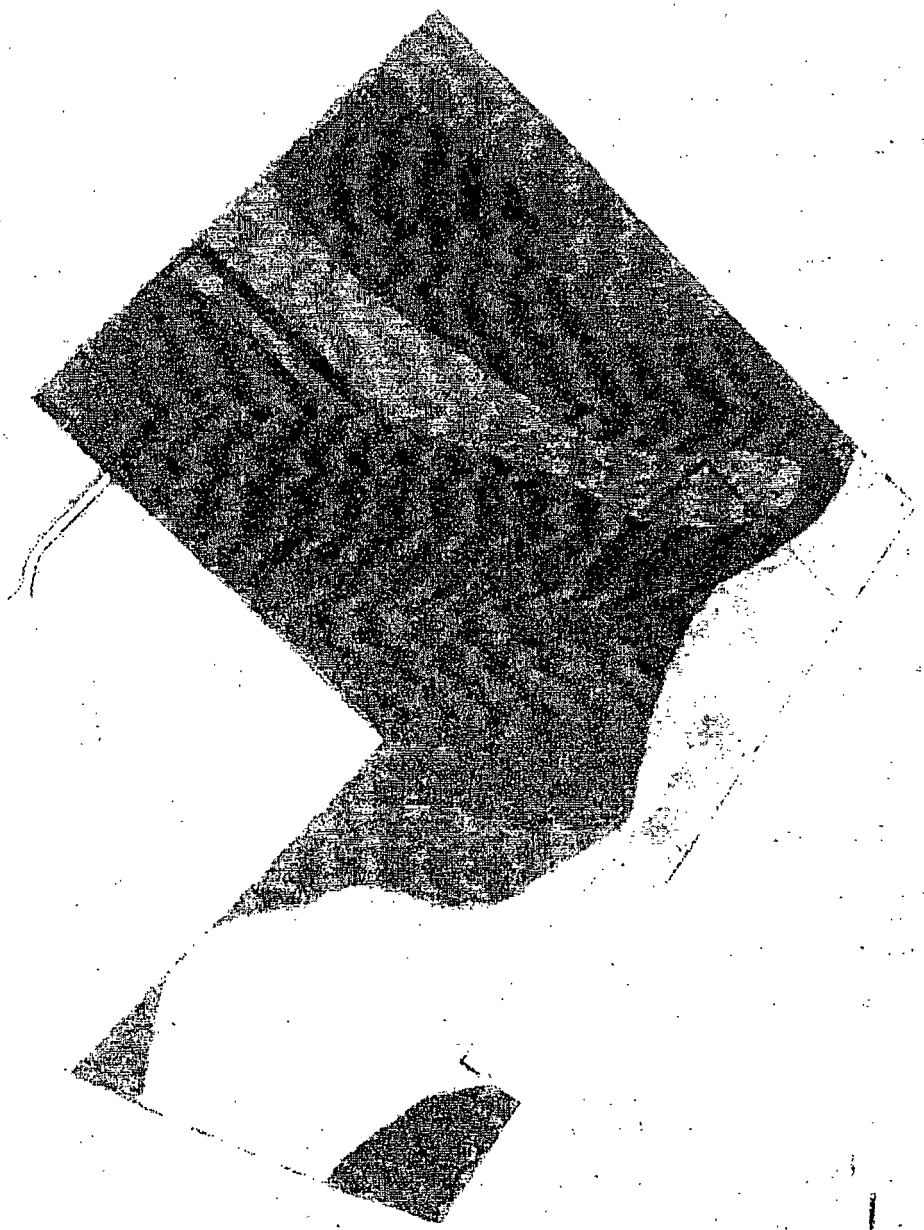
Water Quality and Sediment Trapping Calculations ..... Appendix G

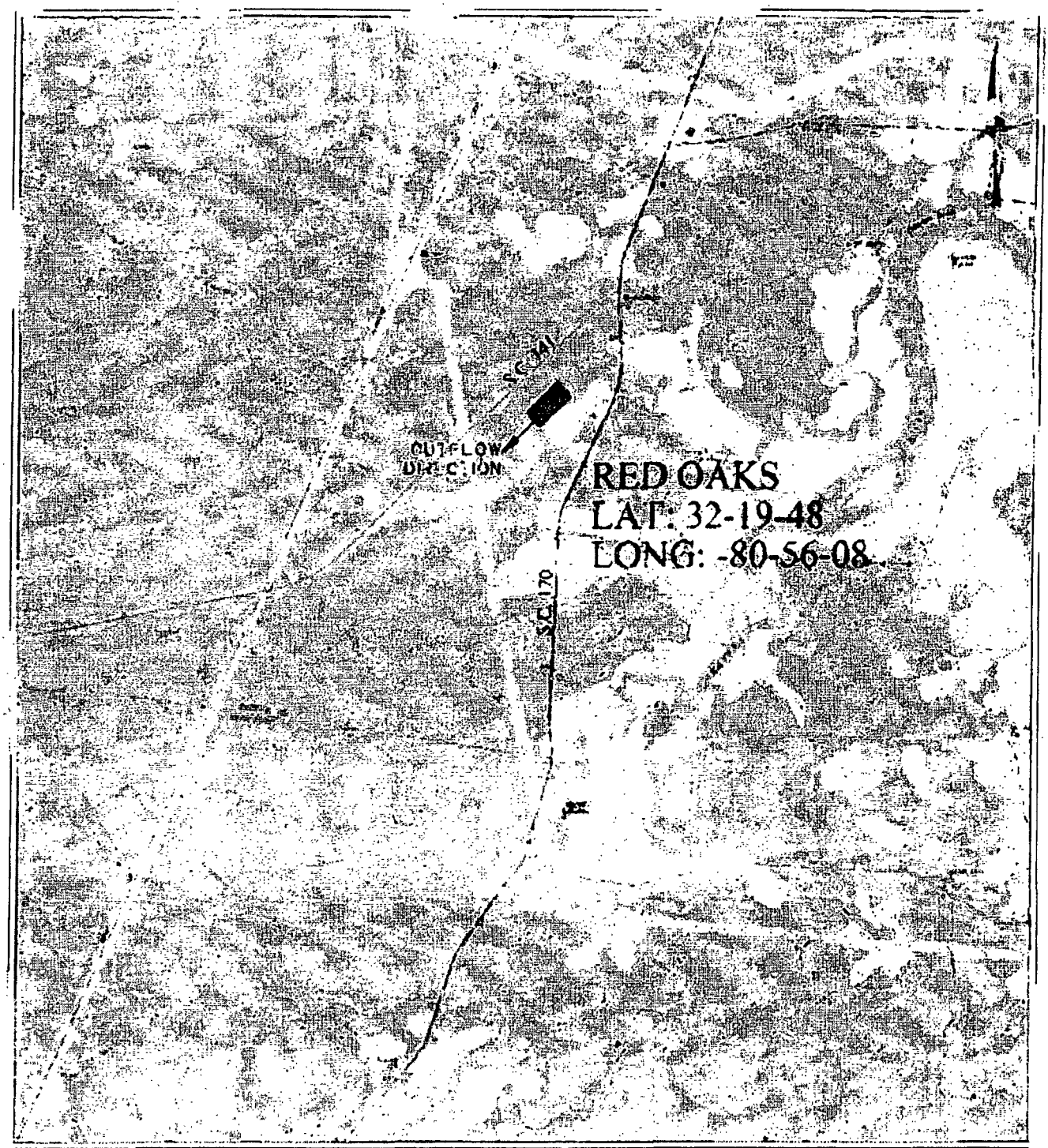
The following can be found in pockets at the end of this report:

Pre-Development Drainage Exhibit ..... 24" x 36" Exhibit

Post-Development Drainage Exhibit ..... 24" x 36" Exhibit

000634





RED OAKS

PROPOSED ACTIVITY: COMMERCIAL BUSINESS PARK

VICINITY MAP

CLIENT:

DTG HOLDINGS, LLC

DATE: 2/6/2009 SHEET: 1 OF 1

LOCATION: JASPER CO., S.C. SCALE: 1" = ±4,000

THOMAS & HUTTON ENGINEERING CO.

50 PARK OF COMMERCE WAY
POST OFFICE BOX 2727
SAVANNAH, GA. 31402
PHONE: (912) 234-5300
FAX: (912) 234-2950
WWW.THOMAS-HUTTON.COM

GEORGIA · SAVANNAH, BRUNSWICK
SOUTH CAROLINA · CHARLESTON, MYRTLE BEACH
NORTH CAROLINA · WILMINGTON

SUMMARY OF RESULTS
Red Oaks Phase 3

Storm Frequency	Pre-Development Runoff Rates	Post-Development Runoff Rates Composite Runoff
2-Year	26.74 cfs	**26.23 cfs**
10-Year	67.67 cfs	**53.37 cfs**
25-Year	93.76 cfs	**67.54 cfs**
50-Year	117.44 cfs	**70.33 cfs**
100-Year	139.91 cfs	**78.66 cfs**

PROJECT NARRATIVE

Red Oaks Phase 3 is a 18.4 acre commercial business park within Hardeeville, South Carolina and consists of 1 stormwater lagoon, and associated infrastructure. The owner of the project is DTG Holdings LLC. Access to the property will be from SC Hwy 170.

The majority of the site is currently open with little to no plant life. The entire site sheet flows offsite to the southwest. Drainage from the site sheet flows through thick brush and woods and eventually crosses back under SC Hwy 170 through an existing pipe. The ultimate discharge is into the Okatie River.

The post-development drainage system will be routed and attenuated through one lagoon and ultimately discharge through pipes and and overflow weir to the southwest offsite. The post-development sub-basins were delineated and are illustrated on the Post-Development Drainage Exhibit found at the end of this report. Appropriate design information for the lagoons and associated drainage pipes can be found on the aforementioned exhibit and Appendix B.

PURPOSE

- To define the limits of the drainage basin that contain this project.
- To document that major drainage infrastructure such as road crossings, pond connectors, ponds, and outfalls are adequate for all existing, proposed, and future development within the drainage basin, or that infrastructure construction can be phased to accommodate future development.
- To document compliance with regulatory requirements of the State of South Carolina and Jasper County, summarized as follows.

  - **SCDHEC - OCRM**
  - Post-Development peak runoff rates shall be detained for the 2, 10, 25-year storms.
  - Water Quality shall be maintained by retaining specified amounts of runoff in a 24 hour period.
  - Sediment shall be prevented from leaving the site during construction.

  - **Jasper County**
  - Post-Development peak runoff rates shall be detained for the 2, 10, and 25-year storms
  - Peak stages in lakes shall be below the minimum Finished Floor Elevations.
  - Study entire drainage basin at a buildout condition, including areas upstream and downstream of the current project.
  - Drainage culverts shall be sized to accommodate runoff from the 25-year storms.

STORMWATER QUANTITY METHODOLOGY

The proposed conditions were analyzed using the Advanced Interconnected Channel and Pond Routing (ICPR) computer program developed by Streamline Technologies. The program is used to model rainfall and stormwater runoff and to perform hydraulic routing through the storm drainage system. The ICPR program is a FEMA approved model that has the ability to analyze complex interconnected drainage systems dynamically over extended time periods.

The hydrologic input data consists of information for each drainage basin, or subwatershed, within the project. Input variables include runoff curve number, rainfall distribution pattern, hydrograph peaking factor, area of each drainage basin, and time of concentration (see below section "Hydrology" for specifics on the values of these variables that were used in this model). The ICPR program generates runoff hydrographs for each subwatershed based on the user-specified variables. Hydrographs are generated by ICPR using the SCS Unit Hydrograph Method.

The model hydraulic input data consists of a system of nodes and links. Nodes represent locations where flows enter or exit the system, pipe or channel characteristics change, or where stage/storage/time relationships are provided. Links represent traditional types of hydraulic conveyance such as pipes, channels, drop structures, weirs, etc. The sizes, inverts, lengths, and Manning n values for pipes connecting the lagoons are inputed into the model. In addition to pipe information, lagoon stage-storage information and the respective outfall structure information is inputed into the model. The node and link conditions are analyzed within the model for a given storm, and flow conditions are determined.

The basic equation used by ICPR to route flows through the system is:

$$\Delta s = (Q_{in} - Q_{out})\ \Delta t$$

Where	Δs	=	Change in storage for time step
	Q_{in}	=	Flow into a node at time "t"
	Q_{out}	=	Flow out of a node at time "t"
	Δt	=	Length of time step; user defined range from 1.0 sec to 0.1 sec.

Hydrographs for each drainage area are merged within the ICPR program, and the hydrologic results are then combined with the hydraulic information to model the hydraulic interactions of the entire drainage system. The results include lagoon discharge rates and stage/storage information during the design storm.

For the design of the storm drainage system, a warning stage elevation is set for each lagoon and structure to assure no stormwater ponding. In addition, the ultimate discharge rate from the system cannot exceed the pre-developed runoff rate. Knowing these two factors, the drainage system is designed by trial and error.

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HYDROLOGY

- SCS Unit Hydrograph Method is used.
- Amount of rainfall for each storm frequency is determined based on Technical Paper No. 40, Rainfall Frequency of the U.S., USDA Soil Conservation Service. The following design storms are used in the model simulations:
  - 2-year, 24-hour Design Storm = 4.2 inches
  - 10-year, 24-hour Design Storm = 6.4 inches
  - 25-year, 24-hour Design Storm = 7.8 inches
  - 50-year, 24-hour Design Storm = 9.0 inches
  - 100-year, 24-hour Design Storm = 10.2 inches
- SCS Type III Statistical Rainfall Distribution is used. This distribution pattern is determined by the Soil Conservation Service comparing regional rain-gage data.
- A 323 Hydrograph Peaking Factor is used instead of the Typical SCS 484 Peaking Factor. The 323 Factor is based on statistical analysis of actual rainfall and runoff data from the Southeastern United States, and is typical for coastal areas.

PRE-DEVELOPMENT RUNOFF CALCULATIONS

Pre-development peak flow rates for Red Oaks Phase 3 watershed for each design storm are calculated by the ICPR program. The pre-development drainage basin is shown in an attached exhibit at the end of this report. Pre-development calculations and model results are included in Appendix A.

Curve Numbers

Curve numbers are generated according to procedures set forth in SCS Technical Release 55. The composite curve numbers for each drainage basin are calculated using soils information from the SCS Soil Survey of Jasper County. Pre-Development Curve Numbers were weighted based on the type and amount of soil within the basin. The Pre-Development Basin had a Curve Number of 79.

Time of Concentration

Times of concentration were calculated according to procedures set forth in SCS Hydrology Technical Release 55. The travel times (T_t) for overland flow, shallow concentrated flow, and channel flow are added together for the drainage basin to get the time of concentration T_c. Please see the Pre-Development Drainage Exhibit at the end of this report for times of concentration for each watershed.

POST-DEVELOPMENT RUNOFF CALCULATIONS

The components of the proposed system are roads containing curb and gutter, drainage pipes, lagoons, and weirs. Roads provide positive drainage from lots. A piped drainage system conveys runoff from the majority of the site to lagoons located in the development. The lagoons discharge off site at flow rates less than pre developed conditions.

Curve Numbers

Curve numbers are generated according to procedures set forth in SCS Technical Release 55. The composite curve numbers for each drainage basin are calculated using soils information from the SCS Soil Survey of Jasper County. Post-Development Curve Numbers were weighted based on the type and amount of soil within the basin.

BASIN NAME	AREA (AC)	SOIL TYPE				LAND USE DESCRIPTION	RUNOFF CURVE #				COMPOSITE CURVE #
		A' (AC)	B' (AC)	C' (AC)	D' (AC)		A	B	C	D	
CS 1	12.0	0.0%	45.0%	0.0%	55.0%	WOODS - Fair	45	66	77	83	75
CS 2	8.0	0.0%	0.0%	0.0%	100.0%	WOODS - Fair	45	60	73	79	79
CS 3	12.4	0.0%	0.0%	0.0%	100.0%	WOODS - Fair	45	60	73	79	79
CS 4	3.4	0.0%	0.0%	0.0%	100.0%	WOODS - Fair	45	60	73	79	79
CS 5	3.0	0.0%	0.0%	0.0%	100.0%	WOODS - Fair	45	60	73	79	79
CS 6	3.7	0.0%	0.0%	0.0%	100.0%	WOODS - Fair	45	60	73	79	79
CS 7	3.3	0.0%	0.0%	0.0%	100.0%	WOODS - Fair	45	60	73	79	79
CS 8	3.5	0.0%	0.0%	0.0%	100.0%	WOODS - Fair	45	60	73	79	79
CS 9	3.5	0.0%	0.0%	0.0%	100.0%	WOODS - Fair	45	60	73	79	79
CS 10	3.3	0.0%	0.0%	0.0%	100.0%	WOODS - Fair	36	60	73	79	79
1	8.6	0.0%	0.0%	0.0%	100.0%	Commercial/ Industrial	81	88	91	93	93
2	13.1	0.0%	0.0%	0.0%	100.0%	Commercial/ Industrial	81	88	91	93	93

Time of Concentration

Times of concentration were calculated according to procedures set forth in SCS Hydrology Technical Release 55. The travel times (T_t) for overland flow, shallow concentrated flow, and channel flow are added together for the drainage basin to get the time of concentration T_c. Please see the Post-Development Drainage Exhibit at the end of this report for times of concentration for each watershed.

POST-DEVELOPED CONDITIONS

Post-development drainage basins are shown in an attached exhibit at the end of this report. See Appendices B through F for post-development ICPR model input and results. See Summary of Pre-Development vs. Post-Development Results at the beginning of the report.

CONCLUSIONS

The post-developed runoff is detained on site and released at less than pre-developed rates. The storm drainage system design meets town, county, and state requirements.

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Red Oaks Plaza
Phase 3
Hardeeville, SC

Appendix A

Pre-Development Hydrology Report &
Allowable Discharge Calculations

Prepared By

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50 Park of Commerce Way / Savannah / GA / 31405
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1350 Farrow Parkway / Myrtle Beach / SC / 29577
219 Station Road, Suite 101 / Wilmington / NC / 28405
116 West Palm Plaza Drive / Brunswick / GA / 31523

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Kon ...ast Fiats Phase 1
...ST DEVELOPMENT MODEL

Name CS1		Node CS1	Status Onsite
Group BASE		Type SCS Unit Hydrograph CN	
Unit Hydrograph	UH323	Peaking Factor	323.0
Rainfall File	Scs111	Storm Duration(hrs)	0.00
Rainfall Amount(in)	0.000	Time of Conc(min)	50.00
Area(ac)	12.000	Time Shift(hrs)	0.00
Curve Number	79.00	Max Allowable Q(cfs)	999999.000
DCIA(%)	0.00		

Name CS10		Node CS10	Status Onsite
Group BASE		Type SCS Unit Hydrograph CN	
Unit Hydrograph	UH323	Peaking Factor	323.0
Rainfall File	Scs111	Storm Duration(hrs)	0.00
Rainfall Amount(in)	0.000	Time of Conc(min)	41.00
Area(ac)	6.000	Time Shift(hrs)	0.00
Curve Number	79.00	Max Allowable Q(cfs)	999999.000
DCIA(%)	0.00		

Name CS2		Node CS2	Status Onsite
Group BASE		Type SCS Unit Hydrograph CN	
Unit Hydrograph	UH323	Peaking Factor	323.0
Rainfall File	Scs111	Storm Duration(hrs)	0.00
Rainfall Amount(in)	0.000	Time of Conc(min)	55.00
Area(ac)	8.000	Time Shift(hrs)	0.00
Curve Number	79.00	Max Allowable Q(cfs)	999999.000
DCIA(%)	0.00		

Name CS3		Node CS3	Status Onsite
Group BASE		Type SCS Unit Hydrograph CN	
Unit Hydrograph	UH323	Peaking Factor	323.0
Rainfall File	Scs111	Storm Duration(hrs)	0.00
Rainfall Amount(in)	0.000	Time of Conc(min)	55.00
Area(ac)	11.000	Time Shift(hrs)	0.00
Curve Number	79.00	Max Allowable Q(cfs)	999999.000
DCIA(%)	0.00		

Name CS4		Node CS4	Status Onsite
Group BASE		Type SCS Unit Hydrograph CN	
Unit Hydrograph	UH323	Peaking Factor	323.0
Rainfall File	Scs111	Storm Duration(hrs)	6.00
Rainfall Amount(in)	0.000	Time of Conc(min)	61.00

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Area(ac)	5.000	Time Shift(hrs)	0.00
Curve Number	79.00	Max Allowable Q(cfs)	999999.000
DCIA(%)	0.00		

Name	CS5	Node	CS5
Group	BASE	Type	SCS Unit Hydrograph
			Status Onsite
Unit Hydrograph	Uh424	Peaking Factor	424.0
Rainfall File	Scs111	Storm Duration(hrs)	0.00
Rainfall Amount(in)	0.000	Time of Conc(min)	60.00
Area(ac)	6.000	Time Shift(hrs)	0.00
Curve Number	79.00	Max Allowable Q(cfs)	999999.000
DCIA(%)	0.00		

Name	CS6	Node	CS6
Group	BASE	Type	SCS Unit Hydrograph
			Status Onsite
Unit Hydrograph	Uh323	Peaking Factor	323.0
Rainfall File	Scs111	Storm Duration(hrs)	0.00
Rainfall Amount(in)	0.000	Time of Conc(min)	87.00
Area(ac)	1.000	Time Shift(hrs)	0.00
Curve Number	79.00	Max Allowable Q(cfs)	999999.000
DCIA(%)	0.00		

Name	CS7	Node	CS7
Group	BASE	Type	SCS Unit Hydrograph
			Status Onsite
Unit Hydrograph	Uh323	Peaking Factor	323.0
Rainfall File	Scs111	Storm Duration(hrs)	0.00
Rainfall Amount(in)	0.000	Time of Conc(min)	87.00
Area(ac)	6.000	Time Shift(hrs)	0.00
Curve Number	79.00	Max Allowable Q(cfs)	999999.000
DCIA(%)	0.00		

Name	CS8	Node	CS8
Group	BASE	Type	SCS Unit Hydrograph
			Status Onsite
Unit Hydrograph	Uh323	Peaking Factor	323.0
Rainfall File	Scs111	Storm Duration(hrs)	0.00
Rainfall Amount(in)	0.000	Time of Conc(min)	87.00
Area(ac)	2.000	Time Shift(hrs)	0.00
Curve Number	79.00	Max Allowable Q(cfs)	999999.000
DCIA(%)	0.00		

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Name	C69	Node	CS9
Group	BASE	Type	SCS Unit Hydrograph CN

Unit Hydrograph	CH323	Peaking Factor	323.0
Rainfall File	Scs111	Storm Duration(hrs)	0.50
Rainfall Amount(in)	0.000	Time of Concn(min)	81.00
Area(ac)	1.000	Time Shift(hrs)	0.00
Curve Number	79.00	Max Allowable Q(cfs)	999999.000
DCIA(%)	0.00		

Status Obsolete

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February 6 2004

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Name	Group	Simulation	Max Time Stage hrs	Max Stage ft	Warning Stage ft	Max Delta Stage ft	Max Wetl Area ft2	Max Time Inflow hrs	Max Inflow cfs	Max Time Outflow hrs	Max Outflow cfs
DCPOND OUTFALL 3	BASE	002-YEAR	0.00	34.41	30.00	0.0000	0	14.39	26.76	0.00	0.00
DCPOND OUTFALL 4	BASE	010-YEAR	0.00	34.41	30.00	0.0000	0	13.70	61.67	0.00	0.00
DCPOND OUTFALL 5	BASE	025-YEAR	0.00	34.41	30.00	0.0000	0	13.53	93.76	0.00	0.00
DCPOND OUTFALL 6	BASE	050-YEAR	0.00	34.41	30.00	0.0000	0	13.45	117.46	0.00	0.00
DCPOND OUTFALL 9	BASE	100-YEAR	0.00	34.41	30.00	0.0000	0	13.39	139.91	0.00	0.00

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Red Oaks Plaza
Phase 3
Hardeeville, SC

Appendix B

Post-Development ICPR Model Input Report

Prepared By

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116 West Palm Plaza Drive / Brunswick / GA / 31523

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KEE OAKS PHASE 3
Post Development
Input Report
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Basins

Name 1	Node LAGOON 1	Status Onsite	
Group BASE	Type SCS Unit Hydrograph CN		
Unit Hydrograph Uh323	Peaking Factor 323 0		
Rainfall File Sc811i	Storm Duration(hrs) 0.00		
Rainfall Amount(in) 0 000	Time of Conc(min) 15 00		
Area(ac) 7 100	Time Shift(hrs) 0 00		
Curve Number 93 00	Max Allowable Q(cfs) 999999 900		
DCIA(%) 0.00			

Name 2	Node LAGOON 2	Status Onsite	
Group BASE	Type SCS Unit Hydrograph CN		
Unit Hydrograph Uh323	Peaking Factor 323 0		
Rainfall File Sc811i	Storm Duration(hrs) 0 00		
Rainfall Amount(in) 0 000	Time of Conc(min) 15 00		
Area(ac) 11 300	Time Shift(hrs) 0 00		
Curve Number 93 00	Max Allowable Q(cfs) 999999 000		
DCIA(%) 0 00			

Name CS1	Node CS1	Status Onsite	
Group BASE	Type SCS Unit Hydrograph CN		
Unit Hydrograph Uh323	Peaking Factor 323 0		
Rainfall File Sc811i	Storm Duration(hrs) 0 00		
Rainfall Amount(in) 0 000	Time of Conc(min) 50 00		
Area(ac) 12 000	Time Shift(hrs) 0 00		
Curve Number 78 00	Max Allowable Q(cfs) 999999 000		
DCIA(%) 0.00			

Name CS10	Node CS10	Status Onsite	
Group BASE	Type SCS Unit Hydrograph CN		
Unit Hydrograph Uh323	Peaking Factor 323 0		
Rainfall File Sc811i	Storm Duration(hrs) 0 00		
Rainfall Amount(in) 0 000	Time of Conc(min) 63 00		
Area(ac) 5 100	Time Shift(hrs) 0 00		
Curve Number 78 00	Max Allowable Q(cfs) 999999 000		
DCIA(%) 0 00			

Name CS2	Node CS2	Status Onsite	
Group BASE	Type SCS Unit Hydrograph CN		
Unit Hydrograph Uh323	Peaking Factor 323 0		
Rainfall File Sc811i	Storm Duration(hrs) 0 00		
Rainfall Amount(in) 0 000	Time of Conc(min) 55 00		
Area(ac) 8 000	Time Shift(hrs) 0 00		
Curve Number 79 00	Max Allowable Q(cfs) 999999 000		
DCIA(%) 0 00			

Name CS3	Node CS3	Status Onsite	
Group BASE	Type SCS Unit Hydrograph CN		
Unit Hydrograph Uh323	Peaking Factor 323 0		
Rainfall File Sc811i	Storm Duration(hrs) 0 00		
Rainfall Amount(in) 0 000	Time of Conc(min) 55 00		
Area(ac) 12 600	Time Shift(hrs) 0 00		
Curve Number 79 00	Max Allowable Q(cfs) 999999 000		
DCIA(%) 0 00			

Name	CS4	Node	CS4
Group	BASE	Type	SCS Unit Hydrograph CN
Unit Hydrograph	UH323	Peaking Factor	323.0
Rainfall File	Scs11	Storm Duration(hrs)	0.00
Rainfall Amount(in)	0.000	Time of Conc(min)	40.00
Area(ac)	3.400	Time Shift(hrs)	0.00
Curve Number	79.00	Max Allowable Q(cfs)	999999.000
DCIA(%)	0.00		

Name	CS5	Node	CS5
Group	BASE	Type	SCS Unit Hydrograph CN
Unit Hydrograph	UH323	Peaking Factor	323.0
Rainfall File	Scs11	Storm Duration(hrs)	0.00
Rainfall Amount(in)	0.000	Time of Conc(min)	43.00
Area(ac)	3.000	Time Shift(hrs)	0.00
Curve Number	79.00	Max Allowable Q(cfs)	999999.000
DCIA(%)	0.00		

Name	CS6	Node	CS6
Group	BASE	Type	SCS Unit Hydrograph CN
Unit Hydrograph	UH323	Peaking Factor	323.0
Rainfall File	Scs11	Storm Duration(hrs)	0.00
Rainfall Amount(in)	0.000	Time of Conc(min)	44.00
Area(ac)	3.700	Time Shift(hrs)	0.00
Curve Number	79.00	Max Allowable Q(cfs)	999999.000
DCIA(%)	0.00		

Name	CS7	Node	CS7
Group	BASE	Type	SCS Unit Hydrograph CN
Unit Hydrograph	UH323	Peaking Factor	323.0
Rainfall File	Scs11	Storm Duration(hrs)	0.00
Rainfall Amount(in)	0.000	Time of Conc(min)	54.00
Area(ac)	3.300	Time Shift(hrs)	0.00
Curve Number	79.00	Max Allowable Q(cfs)	999999.000
DCIA(%)	0.00		

Name	CS8	Node	CS8
Group	BASE	Type	SCS Unit Hydrograph CN
Unit Hydrograph	UH323	Peaking Factor	323.0
Rainfall File	Scs11	Storm Duration(hrs)	0.00
Rainfall Amount(in)	0.000	Time of Conc(min)	56.00
Area(ac)	3.500	Time Shift(hrs)	0.00
Curve Number	79.00	Max Allowable Q(cfs)	999999.000
DCIA(%)	0.00		

Name	CS9	Node	CS9
Group	BASE	Type	SCS Unit Hydrograph CN
Unit Hydrograph	UH323	Peaking Factor	323.0
Rainfall File	Scs11	Storm Duration(hrs)	0.00
Rainfall Amount(in)	0.000	Time of Conc(min)	91.00
Area(ac)	3.500	Time Shift(hrs)	0.00
Curve Number	79.00	Max Allowable Q(cfs)	999999.000
DCIA(%)	0.00		

Name	LAGOONBASIN	Node	ARGENT-LAGOON
Group	BASE	Type	SCS Unit Hydrograph CN
Unit Hydrograph	UH323	Peaking Factor	323.0
Rainfall File	Scs11	Storm Duration(hrs)	0.00

Rainfall Amount(in) 0.000 Time of Concentr 45.00
Area(ac) 62.990 Time Shift(hrs) 0.00
Curve Number 89.00 Max Allowable Q(cfs) 999999.000
DCIA(%) 0.00

Name WETLAND Node WETLAND Status Onsite
Group BASE Type SCS Unit Hydrograph CN

Unit Hydrograph UNIT3 Peaking Factor 323.0
Rainfall File SCS111 Storm Duration(hrs) 0.00
Rainfall Amount(in) 0.000 Time of Concentr 90.00
Area(ac) 15.800 Time Shift(hrs) 0.00
Curve Number 77.00 Max Allowable Q(cfs) 999999.000
DCIA(%) 0.00

*** Nodes ***

Name ABSENT LAGOON Base Flow(cfs) 0.000 Init Stage(ft) 12.000
Group BASE Warn Stage(ft) 15.000
Type Stage/Area

Stage(ft)	Area(ac)
12.000	1.8000
15.000	4.6300

Name CS1 Base Flow(cfs) 0.000 Init Stage(ft) 65.000
Group BASE Warn Stage(ft) 70.000
Type Stage/Area

Stage(ft)	Area(ac)

Name CS10 Base Flow(cfs) 0.000 Init Stage(ft) 14.500
Group BASE Warn Stage(ft) 20.000
Type Stage/Area

Stage(ft)	Area(ac)

Name CS2 Base Flow(cfs) 0.000 Init Stage(ft) 13.500
Group BASE Warn Stage(ft) 17.000
Type Time Stage

Time(hrs)	Stage(ft)
0.00	13.500
9999.00	13.500

Name CS3 Base Flow(cfs) 0.000 Init Stage(ft) 14.990
Group BASE Warn Stage(ft) 20.000
Type Stage/Area

Stage(ft)	Area(ac)

Name CS4 Base Flow(cfs) 0.000 Init Stage(ft) 14.310
Group BASE Warn Stage(ft) 20.000
Type Stage/Area

Stage(ft) Area(ac)

Name C85 Base Flow(cfs) 0.000 Init Stage(ft) 18.640
Group BASE Warn Stage(ft) 20.000
Type Stage-Area

Stage(ft) Area(ac)

Name C86 Base Flow(cfs) 0.000 Init Stage(ft) 18.620
Group BASE Warn Stage(ft) 20.000
Type Stage-Area

Stage(ft) Area(ac)

Name C87 Base Flow(cfs) 0.000 Init Stage(ft) 18.690
Group BASE Warn Stage(ft) 20.000
Type Stage-Area

Stage(ft) Area(ac)

Name C88 Base Flow(cfs) 0.000 Init Stage(ft) 18.500
Group BASE Warn Stage(ft) 20.000
Type Stage-Area

Stage(ft) Area(ac)

Name C89 Base Flow(cfs) 0.000 Init Stage(ft) 18.310
Group BASE Warn Stage(ft) 20.000
Type Stage-Area

Stage(ft) Area(ac)

Name DITCH Base Flow(cfs) 0.000 Init Stage(ft) 12.000
Group BASE Warn Stage(ft) 0.000
Type Flow-Stage

Flow(cfs) Stage(ft)

0.00 15.000
99999.00 17.000

Name Lagoon 1 Base Flow(cfs) 0.000 Init Stage(ft) 15.760
Group BASE Warn Stage(ft) 19.000
Type Stage-Area

Stage(ft) Area(ac)

15.100 2.9330
17.500 3.2800

Name LAGOON 2 Base Flow(cfs) 0.000 Init Stage(ft) 15.760
Group BASE Warn Stage(ft) 20.000
Type Stage-Area

Stage(ft)	Area(ac)
15.000	1.7400
17.000	2.0900

Name WETLAND Base Flow(cfs) 0.000 Init Stage(ft) 16.610
Group BASE Warn Stage(ft) 17.000
Type Stage-Area

Stage(ft)	Area(ac)
13.000	0.0001
18.000	1.7400

Cross Sections

Name CS1 Group BASE
Encroachment No

Station(ft)	Elevation(ft)	Manning's N
0.000	16.840	0.050000
118.000	15.760	0.050000
419.000	15.670	0.050000
424.000	15.580	0.050000
831.000	15.280	0.050000
1017.000	16.610	0.050000

Name CS10 Group BASE
Encroachment No

Station(ft)	Elevation(ft)	Manning's N
0.000	18.000	0.050000
118.000	17.300	0.050000
306.000	17.000	0.050000
324.000	16.960	0.050000
345.000	16.010	0.050000
376.000	15.170	0.050000
576.000	16.000	0.050000
601.000	16.000	0.050000
611.000	16.780	0.050000
701.000	18.500	0.050000
790.000	19.000	0.050000

Name CS2 Group BASE
Encroachment No

Station(ft)	Elevation(ft)	Manning's N
0.000	17.020	0.050000
100.000	16.110	0.050000
200.000	15.910	0.050000
334.000	15.560	0.050000
470.000	15.600	0.050000
511.000	15.440	0.050000
613.000	15.770	0.050000
1079.000	15.730	0.050000
1259.000	16.630	0.050000

Name CS3 Group BASE
Encroachment No

Station(ft)	Elevation(ft)	Manning's N

18.990	96.300	0.050000
25.010	291.200	0.050000
26.120	195.000	0.050000
26.270	579.000	0.050000
25.280	348.300	0.050000
25.560	771.000	0.050000
25.620	0.000	0.050000
25.980	987.000	0.050000
27.040	1183.000	0.050000

Name: C54 Group: BASE
Encroachment: No

Station(ft)	Elevation(ft)	Manning's N
0.000	16.980	0.050000
75.000	15.660	0.050000
150.000	15.520	0.050000
225.000	15.390	0.050000
300.000	14.600	0.050000
375.000	14.490	0.050000
450.000	14.600	0.050000
525.000	14.840	0.050000
600.000	14.310	0.050000
675.000	14.680	0.050000
735.000	17.000	0.050000

Name: C55 Group: BASE
Encroachment: No

Station(ft)	Elevation(ft)	Manning's N
0.000	16.820	0.050000
75.000	15.490	0.050000
150.000	15.480	0.050000
225.000	15.410	0.050000
300.000	15.580	0.050000
375.000	15.940	0.050000
564.000	15.000	0.050000
639.000	14.440	0.050000
743.000	17.000	0.050000

Name: C56 Group: BASE
Encroachment: No

Station(ft)	Elevation(ft)	Manning's N
0.000	16.820	0.050000
75.000	15.910	0.050000
150.000	15.830	0.050000
841.000	15.000	0.050000
916.000	14.760	0.050000
991.000	14.920	0.050000
1051.000	17.000	0.050000

Name: C57 Group: BASE
Encroachment: No

Station(ft)	Elevation(ft)	Manning's N
0.000	17.000	0.050000
75.000	16.480	0.050000
150.000	16.580	0.050000
225.000	16.760	0.050000
421.000	16.980	0.050000
496.000	16.000	0.050000
571.000	15.000	0.050000
646.000	14.690	0.050000
709.000	17.000	0.050000

Name CSX Group BASE
Encroachment No

Station(ft)	Elevation(ft)	Manning's N
0.000	17.100	0.050000
75.000	16.470	0.050000
225.000	16.860	0.050000
485.000	16.000	0.050000
569.000	15.000	0.050000
619.000	14.500	0.050000
744.000	17.000	0.050000

Name CSX Group BASE
Encroachment No

Station(ft)	Elevation(ft)	Manning's N
0.000	17.000	0.050000
118.000	17.760	0.050000
284.000	17.760	0.050000
353.000	17.000	0.050000
451.000	16.000	0.050000
497.000	15.000	0.050000
[illegible]	14.310	0.050000
[illegible]	17.000	0.050000

Name OUTFALL Group BASE
Encroachment No

Station(ft)	Elevation(ft)	Manning's N
0.000	18.110	0.050000
370.000	17.000	0.050000
392.000	15.990	0.050000
440.000	15.010	0.050000
573.000	14.500	0.050000
592.000	14.910	0.050000
990.000	18.000	0.050000
1004.000	18.000	0.050000
1024.000	14.990	0.050000
1051.000	15.000	0.050000
1159.000	14.510	0.050000
1217.000	14.410	0.050000

Pipes

Name 1-2 From Node Lagoon 1 Length(ft) 90.00
Group BASE To Node LAGOON 2 Count 1
Friction Equation Automatic
Solution Algorithm Most Restrictive
Flow Both
Entrance Loss Coef. 0.00
Exit Loss Coef. 1.00
Bend Loss Coef. 0.00
Outlet Ctrl Spec. Use dc or tw
Inlet Ctrl Spec. Use dc
Stabilizer Option. None

	UPSTREAM	DOWNSTREAM
Geometry	Circular	Circular
Height(in)	36.00	36.00
Width(in)	36.00	36.00
Area(ft^2)	10.000	10.000
Manning's N	0.013000	0.013000
K Coef(in)	0.000	0.000
Y Coef(in)	0.000	0.000

Upstream FHWA Inlet Edge Description
Circular Concrete Square edge w/ headwall

Downstream FHWA Inlet Edge Description
Circular Concrete Square edge w/ headwall

Name OUT 1 From Node LAGOON 2 Length(ft) 90.00
Group BASE To Node WETLAND Count 2
Friction Equation Automatic

	UPSTREAM	DOWNSTREAM		
Geometry	Circular	Circular	Solution Algorithm	Most Restrictive
Span (in)	0.00	0.00	Flow	Both
Rise (in)	0.00	0.00	Entrance Loss Coef	0.50
Invert El (ft)	15.150	15.100	Exit Loss Coef	0.50
Manning's N	0.013000	0.013000	Bend Loss Coef	0.00
Top Clip (in)	0.000	0.000	Outlet Ctrl Spec	Use dc or tw
Bot Clip (in)	0.000	0.000	Inlet Ctrl Spec	Use dc
			Stabilizer Option	None

Upstream FHWA Inlet Edge Description:
Circular Concrete Square edge w/ headwall

Downstream FHWA Inlet Edge Description:
Circular Concrete Square edge w/ headwall

--- Channels ---

Name	CS1 - CS3	From Node	CS1	Length(ft)	100.00
Group	BASE	To Node	CS3	Count	1

	UPSTREAM	DOWNSTREAM		
Geometry	Irregular	Irregular	Friction Equation	Automatic
Invert(ft)	15.080	15.040	Solution Algorithm	Automatic
Elplot(ft)	9999.000	9999.000	Flow	Both
Manning's N			Contraction Coef	0.100
Top Clip(ft)	0.000	0.000	Expansion Coef	0.300
Bot Clip(ft)	0.000	0.000	Entrance Loss Coef	0.000
Main Conn	CS1	CS2	Exit Loss Coef	0.000
Inv Corr(ft)	0.000	0.000	Outlet Ctrl Spec	Use dc or tw
Adj Conn			Inlet Ctrl Spec	Use dc
Inv Corr(ft)	0.000	0.000	Stabilizer Option	None
Adj Conn				
Up Width(ft)				
Depth(ft)				
Dn Width(ft)				
Clsdflp Dn(ft)				
Clsdflp Up(ft)				

Name	CS10 OUT	From Node	CS16	Length(ft)	50.00
Group	BASE	To Node	WETLAND	Count	1

	UPSTREAM	DOWNSTREAM		
Geometry	Irregular	Irregular	Friction Equation	Automatic
Invert(ft)	14.500	14.450	Solution Algorithm	Automatic
Elplot(ft)	9999.000	9999.000	Flow	Both
Manning's N			Contraction Coef	0.100
Top Clip(ft)	0.000	0.000	Expansion Coef	0.300
Bot Clip(ft)	0.000	0.000	Entrance Loss Coef	0.000
Main Conn	CS10	OUTFALL	Exit Loss Coef	0.000
Inv Corr(ft)	0.000	0.000	Outlet Ctrl Spec	Use dc or tw
Adj Conn			Inlet Ctrl Spec	Use dc
Inv Corr(ft)	0.000	0.000	Stabilizer Option	None
Adj Conn				
Up Width(ft)				
Depth(ft)				
Dn Width(ft)				
Clsdflp Dn(ft)				
Clsdflp Up(ft)				

Name	CS2 - CS3	From Node	CS2	Length(ft)	211.00
Group	BASE	To Node	CS3	Count	1

	UPSTREAM	DOWNSTREAM		
Geometry	Irregular	Irregular	Friction Equation	Automatic
Invert(ft)	15.040	14.990	Solution Algorithm	Automatic
Elplot(ft)	9999.000	9999.000	Flow	Both
Manning's N			Contraction Coef	0.100
Top Clip(ft)	0.000	0.000	Expansion Coef	0.300
Bot Clip(ft)	0.000	0.000	Entrance Loss Coef	0.000
Main Conn	CS2	CS3	Exit Loss Coef	0.000
Inv Corr(ft)	0.000	0.000	Outlet Ctrl Spec	Use dc or tw
Adj Conn			Inlet Ctrl Spec	Use dc

Aux Xsect			Stabilizer Option	None
Auxiliary(ft)	0.000	0.000		
Aux Xsect				
Aux Width(ft)				
Depth(ft)				
Aux Width(ft)				
Multiplier				
Multiplier				

Name	C83 - C84	From Node	C83	Length(ft) 336.00
Group	BASE	To Node	C84	Count 1
	UPSTREAM	DOWNSTREAM		
Geometry	Irregular	Irregular	Friction Equation	Automatic
Invert(ft)	14.990	14.310	Solution Algorithm	Automatic
Multiplier(ft)	9999.000	9999.000	Flow	Both
Manning's N			Contraction Coef	0.100
Top Clip(ft)	0.000	0.000	Expansion Coef	0.100
Bot Clip(ft)	0.000	0.000	Entrance Loss Coef	0.000
Main Xsec	C83	C84	Exit Loss Coef	0.000
Aux Xsect	0.000	0.000	Outlet Ctrl Spec	Use dc or tw
Aux Xsect			Inlet Ctrl Spec	Use dc
Auxiliary(ft)	0.000	0.000	Stabilizer Option	None
Aux Xsect				
Aux Width(ft)				
Depth(ft)				
Aux Width(ft)				
Multiplier				
Multiplier				

Name	C84 - C85	From Node	C84	Length(ft) 307.00
Group	BASE	To Node	C85	Count 1
	UPSTREAM	DOWNSTREAM		
Geometry	Irregular	Irregular	Friction Equation	Automatic
Invert(ft)	14.310	14.640	Solution Algorithm	Automatic
Multiplier(ft)	9999.000	9999.000	Flow	Both
Manning's N			Contraction Coef	0.100
Top Clip(ft)	0.000	0.000	Expansion Coef	0.100
Bot Clip(ft)	0.000	0.000	Entrance Loss Coef	0.000
Main Xsec	C84	C85	Exit Loss Coef	0.000
Aux Xsect	0.000	0.000	Outlet Ctrl Spec	Use dc or tw
Aux Xsect			Inlet Ctrl Spec	Use dc
Auxiliary(ft)	0.000	0.000	Stabilizer Option	None
Aux Xsect				
Aux Width(ft)				
Depth(ft)				
Aux Width(ft)				
Multiplier				
Multiplier				

Name	C85 - C86	From Node	C85	Length(ft) 211.00
Group	BASE	To Node	C86	Count 1
	UPSTREAM	DOWNSTREAM		
Geometry	Irregular	Irregular	Friction Equation	Automatic
Invert(ft)	14.640	14.820	Solution Algorithm	Automatic
Multiplier(ft)	9999.000	9999.000	Flow	Both
Manning's N			Contraction Coef	0.100
Top Clip(ft)	0.000	0.000	Expansion Coef	0.100
Bot Clip(ft)	0.000	0.000	Entrance Loss Coef	0.000
Main Xsec	C85	C86	Exit Loss Coef	0.000
Aux Xsect	0.000	0.000	Outlet Ctrl Spec	Use dc or tw
Aux Xsect			Inlet Ctrl Spec	Use dc
Auxiliary(ft)	0.000	0.000	Stabilizer Option	None
Aux Xsect				
Aux Width(ft)				
Depth(ft)				
Aux Width(ft)				
Multiplier				
Multiplier				

Name	C58 - C57	From Node C58	Length(ft) 207.00
Group	BASE	To Node C57	Count 1

	UPSTREAM	DOWNSTREAM		
Geometry	Irregular	Irregular	Friction Equation	Automatic
Invert(ft)	14.690	14.690	Solution Algorithm	Automatic
Bottom Width(ft)	9999.000	9999.000	Flow	Both
Manning's N			Contraction Coef.	0.100
Top Clip(ft)	0.000	0.000	Expansion Coef.	0.300
Bot Clip(ft)	0.000	0.000	Entrance Loss Coef.	0.000
Main Xsec	C58	C57	Exit Loss Coef.	0.000
Auxiliary(ft)	0.000	0.000	Outlet Ctrl Spec	Use dc or tw
Aux Xsec			Inlet Ctrl Spec	Use dc
Full Flow(cfs)	0.000	0.000	Stabilizer Option	None
Aux Xsec2				
Top Width(ft)				
Depth(ft)				
Hyd Width(ft)				
Ups Slope(%)				
Dns Slope(%)				

Name	C57 - C56	From Node C57	Length(ft) 204.00
Group	BASE	To Node C56	Count 1

	UPSTREAM	DOWNSTREAM		
Geometry	Irregular	Irregular	Friction Equation	Automatic
Invert(ft)	14.690	14.690	Solution Algorithm	Automatic
Bottom Width(ft)	9999.000	9999.000	Flow	Both
Manning's N			Contraction Coef.	0.100
Top Clip(ft)	0.000	0.000	Expansion Coef.	0.300
Bot Clip(ft)	0.000	0.000	Entrance Loss Coef.	0.000
Main Xsec	C57	C56	Exit Loss Coef.	0.000
Auxiliary(ft)	0.000	0.000	Outlet Ctrl Spec	Use dc or tw
Aux Xsec			Inlet Ctrl Spec	Use dc
Full Flow(cfs)	0.000	0.000	Stabilizer Option	None
Aux Xsec2				
Top Width(ft)				
Depth(ft)				
Hyd Width(ft)				
Ups Slope(%)				
Dns Slope(%)				

Name	C56 - C59	From Node C56	Length(ft) 207.00
Group	BASE	To Node C59	Count 1

	UPSTREAM	DOWNSTREAM		
Geometry	Irregular	Irregular	Friction Equation	Automatic
Invert(ft)	14.500	14.330	Solution Algorithm	Automatic
Bottom Width(ft)	9999.000	9999.000	Flow	Both
Manning's N			Contraction Coef.	0.100
Top Clip(ft)	0.000	0.000	Expansion Coef.	0.300
Bot Clip(ft)	0.000	0.000	Entrance Loss Coef.	0.000
Main Xsec	C56	C59	Exit Loss Coef.	0.000
Auxiliary(ft)	0.000	0.000	Outlet Ctrl Spec	Use dc or tw
Aux Xsec			Inlet Ctrl Spec	Use dc
Full Flow(cfs)	0.000	0.000	Stabilizer Option	None
Aux Xsec2				
Top Width(ft)				
Depth(ft)				
Hyd Width(ft)				
Ups Slope(%)				
Dns Slope(%)				

Name	C59 - C510	From Node C59	Length(ft) 201.00
Group	BASE	To Node C510	Count 1

	UPSTREAM	DOWNSTREAM		
Geometry	Irregular	Irregular	Friction Equation	Automatic
Invert(ft)	14.330	14.500	Solution Algorithm	Automatic
Bottom Width(ft)	9999.000	9999.000	Flow	Both
Manning's N			Contraction Coef.	0.100
Top Clip(ft)	0.000	0.000	Expansion Coef.	0.300
Bot Clip(ft)	0.000	0.000	Entrance Loss Coef.	0.000
			Exit Loss Coef.	0.000

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    Main xSec    C69          C510                 Outlet Ctrl Spec   Use dc or tw
Au Elev(ft)      0 000        0 000                  Inlet Ctrl Spec  Use dc
    Aux xSec                                      Stabilizer Option   None
Aux Elev2(ft)    0 000        0 000
    Aux xSec2
... # Brch(ft)
    Drop(ft)
... Width(ft)
... Slope(%)
... Elev(ft)

        Name  WETLAND-CHAN          From Node  WETLAND          Length(ft)  35 00
       Group  BASE                    To Node  DITCH                Count  1

              UPSTREAM       DOWNSTREAM          Friction Equation  Automatic
    Geometry  Trapezoidal    Trapezoidal        Solution Algorithm  Automatic
    Invert(ft)  13.880       14.000                        Flow     Both
Slp1/Slp2(ft)  9999 000      9999 000           Contraction Coef  0 100
  Manning s N  0 040000      0 040000             Expansion Coef  0 300
 Top Clip(ft)  0 000         0 000           Entrance Loss Coef  0 000
 Bot Clip(ft)  0 000         0 000              Exit Loss Coef   0 000
    Main xSec                                   Outlet Ctrl Spec  Use dc or tw
... Elev (ft)                                     Inlet Ctrl Spec  Use dc
    Aux xSec                                   Stabilizer Option   None
... Width(ft)
    Slope(%)
... Width(ft)  5 000        1 000
...Slope(pin/v)  2 00       2 00
...Slope(pin/v)  2 00       2 00

... ********************************************************************************
... Weirs ********************************************************************************
... ********************************************************************************

        Name  LAGOON-WEIR          From Node  ADJUST-LAGOON
       Group  BASE                   To Node  DITCH
        Flow  Both                     Count  1
        Type  Vertical  Fread       Geometry  Trapezoidal

      Bottom Width(ft)  5 00
  Left Side Slope(h/v)  1 00
 Right Side Slope(h/v)  1 00
          Invert(ft)  13 500
  Control Elevation(ft)  13 500
 Struct Opening Dim(ft)  9999 00
                                    TABLE
      Bottom Clip(ft)  0 000
        Top Clip(ft)  0 000
   Weir Discharge Coef  3 200
Orifice Discharge Coef  0 600

... ********************************************************************************

        Name  OUTFALL S-16TR       From Node  LAGOON 2
       Group  BASE                   To Node  WETLAND
        Flow  Both                     Count  1
        Type  Vertical  Fread       Geometry  Trapezoidal

      Bottom Width(ft)  15 00
  Left Side Slope(h/v)  2 00
 Right Side Slope(h/v)  2 00
          Invert(ft)  15 400
  Control Elevation(ft)  15 400
 Struct Opening Dim(ft)  99999 00
                                    TABLE
      Bottom Clip(ft)  0 000
        Top Clip(ft)  0 000
   Weir Discharge Coef  3 200
Orifice Discharge Coef  0 600

... ********************************************************************************

        Name  OUTFALL S-25TR       From Node  LAGOON 1
       Group  BASE                   To Node  WETLAND
```

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...  Development
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        Flow  Both                        Count  1
        Type  Vertical  Freed       Geometry  Trapezoidal

           Bottom Width(ft)  100.00
        Left Side Slope(h/v)  2.00
       Right Side Slope(h/v)  2.00
             Invert(ft)  15.800
      Control Elevation(ft)  15.800
     Structure Opening Dim(ft)  99999.00
                                        TABLE
           Bottom Clip(ft)  0.000
              Top Clip(ft)  0.000
        Weir Discharge Coef  3.200
     Orifice Discharge Coef  0.600


        Name  OUTFALL 5-2yr          From Node  LAGOON 2
       Group  BASE                     To Node  WETLAND
        Flow  Both                       Count  1
        Type  Vertical  Wave        Geometry  Trapezoidal

           Bottom Width(ft)  5.00
        Left Side Slope(h/v)  2.00
       Right Side Slope(h/v)  2.00
             Invert(ft)  15.200
      Control Elevation(ft)  15.200
     Structure Opening Dim(ft)  99999.00
                                        TABLE
           Bottom Clip(ft)  0.000
              Top Clip(ft)  0.000
        Weir Discharge Coef  3.200
     Orifice Discharge Coef  0.600


...  Hydrology Simulations ***********************************************************

        Name  002-YR
    Filename  I:\MALPHRUS\Red Oaks\21099\Design\Stormwater\Post\ICPR\MalphrusOnly\SheetFlow\002-YR.R32

     Override Defaults  Yes
   Storm Duration(hrs)  24.00
      Rainfall File  Scs_II
  Rainfall Amount(in)  4.30

Time Step(hrs)        Print Inc(min)
                      --------------
                      15.00


        Name  010-YR
    Filename  I:\MALPHRUS\Red Oaks\21099\Design\Stormwater\Post\ICPR\MalphrusOnly\SheetFlow\010-YR.R32

     Override Defaults  Yes
   Storm Duration(hrs)  24.00
      Rainfall File  Scs_II
  Rainfall Amount(in)  6.60

Time Step(hrs)        Print Inc(min)
                      --------------
.00                   15.00


        Name  025-YR
    Filename  I:\MALPHRUS\Red Oaks\21099\Design\Stormwater\Post\ICPR\MalphrusOnly\SheetFlow\025-YR.R32

     Override Defaults  Yes
   Storm Duration(hrs)  24.00
      Rainfall File  Scs_II
  Rainfall Amount(in)  7.80

Time Step(hrs)        Print Inc(min)
                      --------------
                      15.00


        Name  050-YR
    Filename  I:\MALPHRUS\Red Oaks\21099\Design\Stormwater\Post\ICPR\MalphrusOnly\SheetFlow\050-YR.R32
```

Override Defaults: Yes
Storm Duration(hrs): 24.00
Rainfall File: Scs11a
Rainfall Amount(in): 9.80

Time(hrs)	Print Inc(min)
0.000	15.00

Name: 100-YR
Filename: I:\MALPHRUS\Red Oaks\21099\Design\Stormwater\Post\ICPR\MalphrusOnly\SheetFlow\100-YR.R32

Override Defaults: Yes
Storm Duration(hrs): 24.00
Rainfall File: Scs11a
Rainfall Amount(in): 10.20

Time(hrs)	Print Inc(min)
0.000	15.00

Routing Simulations

Name: 002-YR Hydrology Sim: 002-YR
Filename: I:\MALPHRUS\Red Oaks\21099\Design\Stormwater\Post\ICPR\MalphrusOnly\SheetFlow\002-YR.T32

Execute: Yes Restart: No Patch: No
Alternative: No

Max Delta Z(ft): 1.00 Delta X Factor: 0.00500
Time Step Optimizer: 10.000
Start Time(hrs): 0.000 End Time(hrs): 36.00
Min Calc Time(sec): 0.5000 Max Calc Time(sec): 60.0000
Boundary Stages: Boundary Flows:

Time(hrs)	Print Inc(min)
0.000	15.000

Group	Run
Basin	Yes

Name: 010-YR Hydrology Sim: 010-YR
Filename: I:\MALPHRUS\Red Oaks\21099\Design\Stormwater\Post\ICPR\MalphrusOnly\SheetFlow\010-YR.T32

Execute: Yes Restart: No Patch: No
Alternative: No

Max Delta Z(ft): 1.00 Delta X Factor: 0.00500
Time Step Optimizer: 10.000
Start Time(hrs): 0.000 End Time(hrs): 36.00
Min Calc Time(sec): 0.5000 Max Calc Time(sec): 60.0000
Boundary Stages: Boundary Flows:

Time(hrs)	Print Inc(min)
0.000	15.000

Group	Run
Basin	Yes

Name: 025-YR Hydrology Sim: 025-YR
Filename: I:\MALPHRUS\Red Oaks\21099\Design\Stormwater\Post\ICPR\MalphrusOnly\SheetFlow\025-YR.T32

Execute: Yes Restart: No Patch: No
Alternative: No

Max Delta Z(ft): 1.00 Delta X Factor: 0.00500
Time Step Optimizer: 10.000
Start Time(hrs): 0.000 End Time(hrs): 36.00

Red Oaks Plaza
Phase 3
Hardeeville, SC

Appendix C

Hydrology Results 2, 10 ,25, 50, and 100 year

Prepared By

Thomas & Hutton Engineering Co.
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1350 Farrow Parkway / Myrtle Beach / SC / 29577
219 Station Road, Suite 101 / Wilmington / NC / 28405
116 West Palm Plaza Drive / Brunswick / GA / 31523

J-21099

[illegible] PHASE 1
[illegible] Environment
[illegible] Report
[illegible]

Min Calc Time(sec): 0.5000 Max Calc Time(sec): 60.0000
Boundary Stages Boundary Flows

[illegible] Print Inc(min)
[illegible] 15.000
[illegible] Run
[illegible] Yes

Name C50-YR Hydrology Sim C50-YR
Project [illegible] \HALPHRUS\Red Oaks\21099\Design\Stormwater\Post ICPR\HalphruOnly\Sheet Flow\C50 YR .32

[illegible] Yes Restart: No Patch: No
[illegible] No

Max Delta Diff: 1.00 Delta Z Factor: 0.00500
Time Step Optimizer: 10.000
Start Time(hrs): 0.000 End Time(hrs): 24.00
Min Calc Time(sec): 0.5000 Max Calc Time(sec): 60.0000
Boundary Stages Boundary Flows

[illegible] Print Inc(min)
[illegible] 15.000
[illegible] Run
[illegible] Yes

Name 100-YR Hydrology Sim 100-YR
Project I:\HALPHRUS\Red Oaks\21099\Design\Stormwater\Post ICPR\HalphruOnly\Sheet Flow\100-YR .32

[illegible] Yes Restart: No Patch: No
[illegible] No

Max Delta Diff: 1.00 Delta Z Factor: 0.00500
Time Step Optimizer: 10.000
Start Time(hrs): 0.000 End Time(hrs): 16.00
Min Calc Time(sec): 0.5000 Max Calc Time(sec): 60.0000
Boundary Stages Boundary Flows

[illegible] Print Inc(min)
[illegible] 15.000
[illegible] Run
[illegible] Yes

RED OAKS PHASE 3
Post Development
Master Report
1 1-09

Simulation	Basin	Group	Time Max hrs	Flow Max cfs	Volume ac	Volume ft3
001-YR	1	BASE	12.27	15.99	3.616	157546
001-YR	2	BASE	12.27	25.65	3.616	140129
001-YR	C01	BASE	12.56	3.48	2.128	92693
001-YR	C010	BASE	12.74	2.35	2.128	28470
001-YR	C02	BASE	12.71	5.95	2.127	61758
001-YR	C03	BASE	13.71	4.22	2.127	95725
001-YR	C04	BASE	12.53	3.12	2.128	28283
001-YR	C05	BASE	12.51	2.67	2.128	23169
001-YR	C06	BASE	12.52	3.19	2.127	28562
001-YR	C07	BASE	12.60	3.50	2.128	25490
001-YR	C08	BASE	12.60	2.65	2.128	27035
001-YR	C09	BASE	11.16	1.84	2.124	26985
010-YR	1	BASE	12.27	25.28	5.980	243815
010-YR	2	BASE	12.27	40.60	5.980	228089
010-YR	C01	BASE	12.56	10.31	4.041	175007
010-YR	C010	BASE	12.74	4.38	4.038	48367
010-YR	C02	BASE	12.59	11.04	4.038	117276
010-YR	C03	BASE	12.59	17.93	4.038	181778
010-YR	C04	BASE	12.53	5.95	4.041	69869
010-YR	C05	BASE	12.51	5.13	4.040	43995
010-YR	C06	BASE	12.52	6.13	4.038	56240
010-YR	C07	BASE	12.60	6.81	4.041	68402
010-YR	C08	BASE	12.60	5.12	4.041	51335
010-YR	C09	BASE	13.14	3.94	4.034	51351
025-YR	1	BASE	12.27	31.36	6.967	279565
025-YR	2	BASE	12.27	50.82	6.967	265707
025-YR	C01	BASE	12.56	24.13	5.328	221924
025-YR	C010	BASE	12.74	5.72	5.328	63736
025-YR	C02	BASE	12.59	15.08	5.327	154530
025-YR	C03	BASE	12.59	23.38	5.327	239514
025-YR	C04	BASE	12.53	7.81	5.324	85712
025-YR	C05	BASE	12.51	6.75	5.323	57172
025-YR	C06	BASE	12.52	8.07	5.322	71430
025-YR	C07	BASE	12.60	8.36	5.324	83779
025-YR	C08	BASE	12.60	6.75	5.324	67844
025-YR	C09	BASE	12.94	4.68	5.316	67839
050-YR	1	BASE	12.27	36.35	8.159	318289
050-YR	2	BASE	12.27	57.84	8.159	334685
050-YR	C01	BASE	12.56	29.15	6.648	280872
050-YR	C010	BASE	12.74	6.91	6.648	77188
050-YR	C02	BASE	12.59	18.24	6.645	187157
050-YR	C03	BASE	12.59	28.27	6.645	290093
050-YR	C04	BASE	12.53	9.41	6.648	78581
050-YR	C05	BASE	12.51	8.15	6.647	70208
050-YR	C06	BASE	12.52	9.76	6.645	85560
050-YR	C07	BASE	12.60	1.69	6.648	77240
050-YR	C08	BASE	12.60	8.15	6.648	81921
050-YR	C09	BASE	12.94	5.67	6.638	81797
100-YR	1	BASE	12.27	41.39	9.353	361060
100-YR	2	BASE	12.27	65.85	9.353	383660
100-YR	C01	BASE	12.56	34.19	7.587	320473
100-YR	C010	BASE	12.74	8.10	7.582	95822
100-YR	C02	BASE	12.59	21.60	7.583	218210
100-YR	C03	BASE	12.59	33.17	7.583	341326
100-YR	C04	BASE	12.53	11.01	7.587	93634
100-YR	C05	BASE	12.51	9.54	7.586	82606
100-YR	C06	BASE	12.52	11.41	7.583	101841
100-YR	C07	BASE	12.60	9.02	7.587	98885
100-YR	C08	BASE	12.60	9.57	7.587	96388
100-YR	C09	BASE	12.94	6.66	7.575	96246

Red Oaks Plaza
Phase 3
Hardeeville, SC

Appendix D

Hydraulic Results 2, 10, 25, 50, and 100 year

Prepared By

Thomas & Hutton Engineering Co.
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J-21099

Name	Group	Simulation	Max Time Stage hrs	Max Stage ft	Warning Stage ft	Max Delta Stage ft	Max Surf Area ft2	Max Time Inflow hrs	Max Inflow cfs
C81	BASE	002-YR	13.75	15.57	20.00	0.0020	12420	12.75	
C810	BASE	002 YR	13.48	14.79	20.00	0.0007	85191	13.13	
C82	BASE	002-YR	0.00	13.50	17.00	0.0000	0	12.75	
C83	BASE	002-YR	13.62	18.36	20.00	-0.1749	10191	12.75	
C84	BASE	002-YR	14.59	15.08	20.00	0.0012	87991	13.50	
C85	BASE	002-YR	14.58	15.08	20.00	0.0006	12462	14.12	
C86	BASE	002-YR	14.52	15.03	20.00	0.0006	16140	14.38	
C87	BASE	002 YR	14.44	15.02	20.00	0.0006	17940	14.62	
C88	BASE	002-YR	14.09	14.92	20.00	0.0007	15319	14.21	
C89	BASE	002-YR	13.98	14.85	20.00	0.0014	26051	13.13	
LAGOON 1	BASE	002-YR	13.72	16.11	20.00	0.0031	116790	12.25	
C81	BASE	010-YR	13.62	15.63	20.00	0.0016	16820	13.50	
C810	BASE	010-YR	13.51	14.12	20.00	0.0006	28481	13.96	
C82	BASE	010 YR	0.00	13.50	17.00	0.0000	0	12.75	
C83	BASE	010-YR	15.15	18.34	20.00	-0.3729	11841	12.75	
C84	BASE	010-YR	13.88	15.23	20.00	0.0011	73486	13.50	
C85	BASE	010-YR	13.88	15.03	20.00	0.0005	46538	13.22	
C86	BASE	010-YR	13.84	15.22	20.00	0.0006	69865	14.06	
C87	BASE	010-YR	13.80	15.21	20.00	0.0005	27196	14.31	
C88	BASE	010-YR	13.64	15.17	20.00	0.0008	25836	14.06	
C89	BASE	010-YR	13.56	15.14	20.00	0.0014	34217	13.95	
LAGOON 1	BASE	010 YR	12.65	16.51	20.00	0.0031	122290	12.25	
C81	BASE	025-YR	13.58	15.66	20.00	0.0016	16133	12.50	
C810	BASE	025-YR	13.48	14.31	20.00	0.0004	25181	14.10	
C82	BASE	025-YR	0.00	13.50	17.00	0.0000	0	12.79	
C83	BASE	025-YR	13.04	18.34	20.00	-0.3719	10754	12.75	
C84	BASE	025 YR	13.78	15.24	20.00	0.0011	77470	13.50	
C85	BASE	025 YR	13.78	15.16	20.00	-0.0004	56846	14.09	
C86	BASE	025-YR	13.76	15.16	20.00	0.0005	61351	14.15	
C87	BASE	025-YR	13.71	15.16	20.00	-0.0001	34272	14.41	
C88	BASE	025-YR	13.66	15.13	20.00	-0.0004	31907	14.16	
C89	BASE	025-YR	13.63	15.12	20.00	0.0014	38789	14.13	
LAGOON 1	BASE	025-YR	12.62	16.93	20.00	0.0021	135107	12.29	
C81	BASE	050 YR	13.57	15.69	20.00	0.0015	17114	12.50	
C810	BASE	050-YR	13.50	15.44	20.00	0.0006	29825	14.17	
C82	BASE	050 YR	0.00	13.50	17.00	0.0000	0	12.79	
C83	BASE	050-YR	13.23	18.34	20.00	-0.3718	10766	12.75	
C84	BASE	050-YR	13.74	15.49	20.00	0.0011	90161	13.50	
C85	BASE	050-YR	13.74	15.48	20.00	-0.0007	80432	13.81	
C86	BASE	050 YR	13.73	15.48	20.00	0.0004	73455	14.21	
C87	BASE	050-YR	13.70	15.48	20.00	-0.0005	60284	14.29	
C88	BASE	050-YR	13.60	15.46	20.00	-0.0004	53107	14.23	
C89	BASE	050-YR	13.54	15.45	20.00	0.0014	42887	14.19	
LAGOON 1	BASE	050-YR	12.60	16.90	20.00	0.0028	127680	12.45	
C81	BASE	100-YR	13.56	15.91	20.00	0.0017	18958	12.50	
C810	BASE	100-YR	13.51	14.58	20.00	0.0003	13780	14.23	
C82	BASE	100-YR	0.00	13.50	17.00	0.0000	0	12.69	
C83	BASE	100 YR	12.30	18.34	20.00	-0.3717	11548	12.75	
C84	BASE	100-YR	13.71	15.59	20.00	0.0011	105733	12.50	
C85	BASE	100-YR	13.71	15.55	20.00	0.0006	119954	12.50	
C86	BASE	100-YR	13.71	15.54	20.00	0.0004	87564	14.20	
C87	BASE	100-YR	13.69	15.54	20.00	-0.0005	85638	14.31	
C88	BASE	100-YR	13.60	15.70	20.00	0.0007	61911	14.10	
C89	BASE	100-YR	13.55	15.57	20.00	0.0011	65797	14.27	
LAGOON 1	BASE	100-YR	12.59	17.06	20.00	0.0018	129998	12.25	

Red Oaks Plaza
Phase 3
Hardeeville, SC

Appendix E

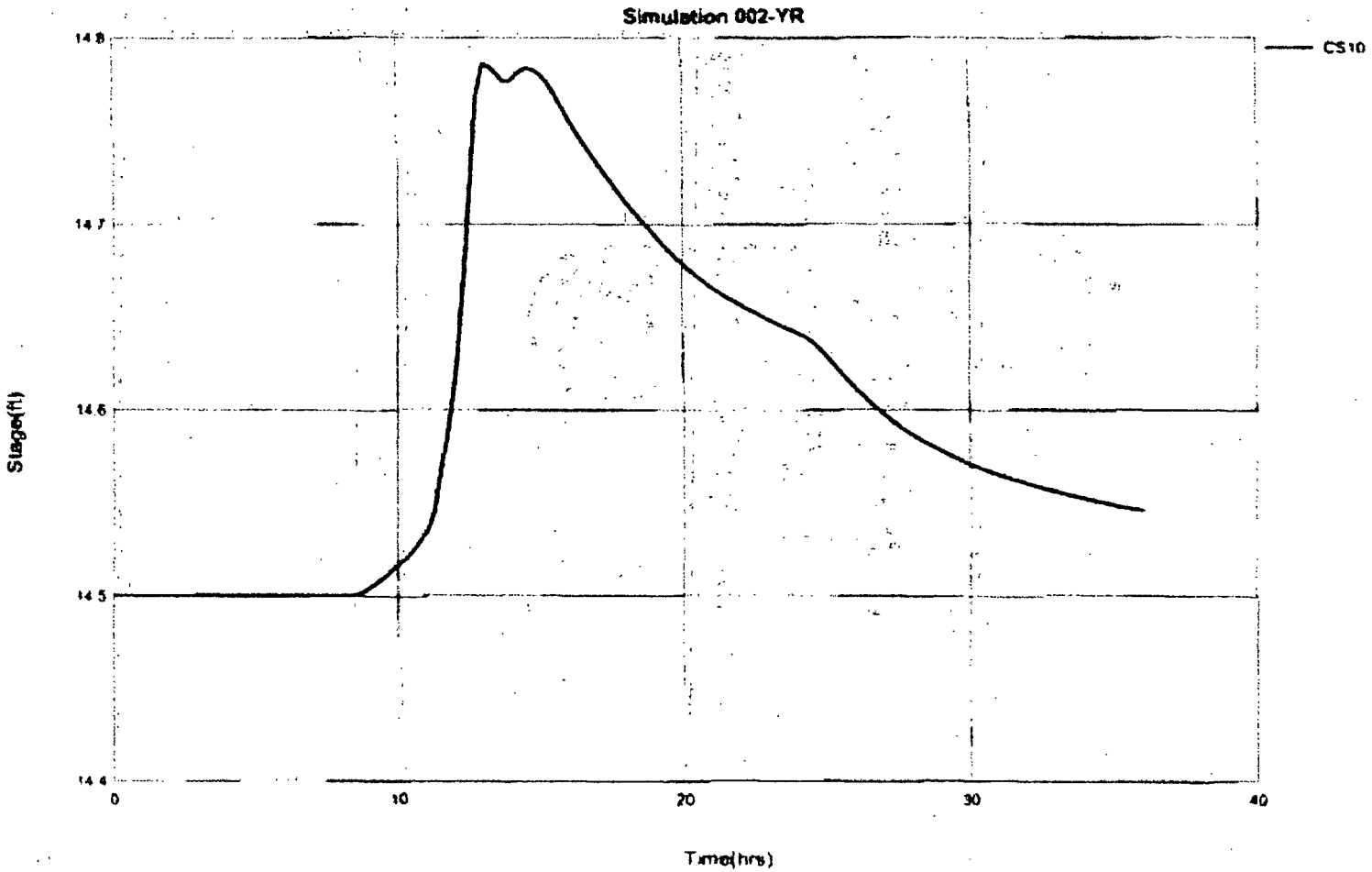
Post Development Time vs. Stage Reports

Prepared By

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RED OAKS
Post Development
Time vs Stage
2-6-09

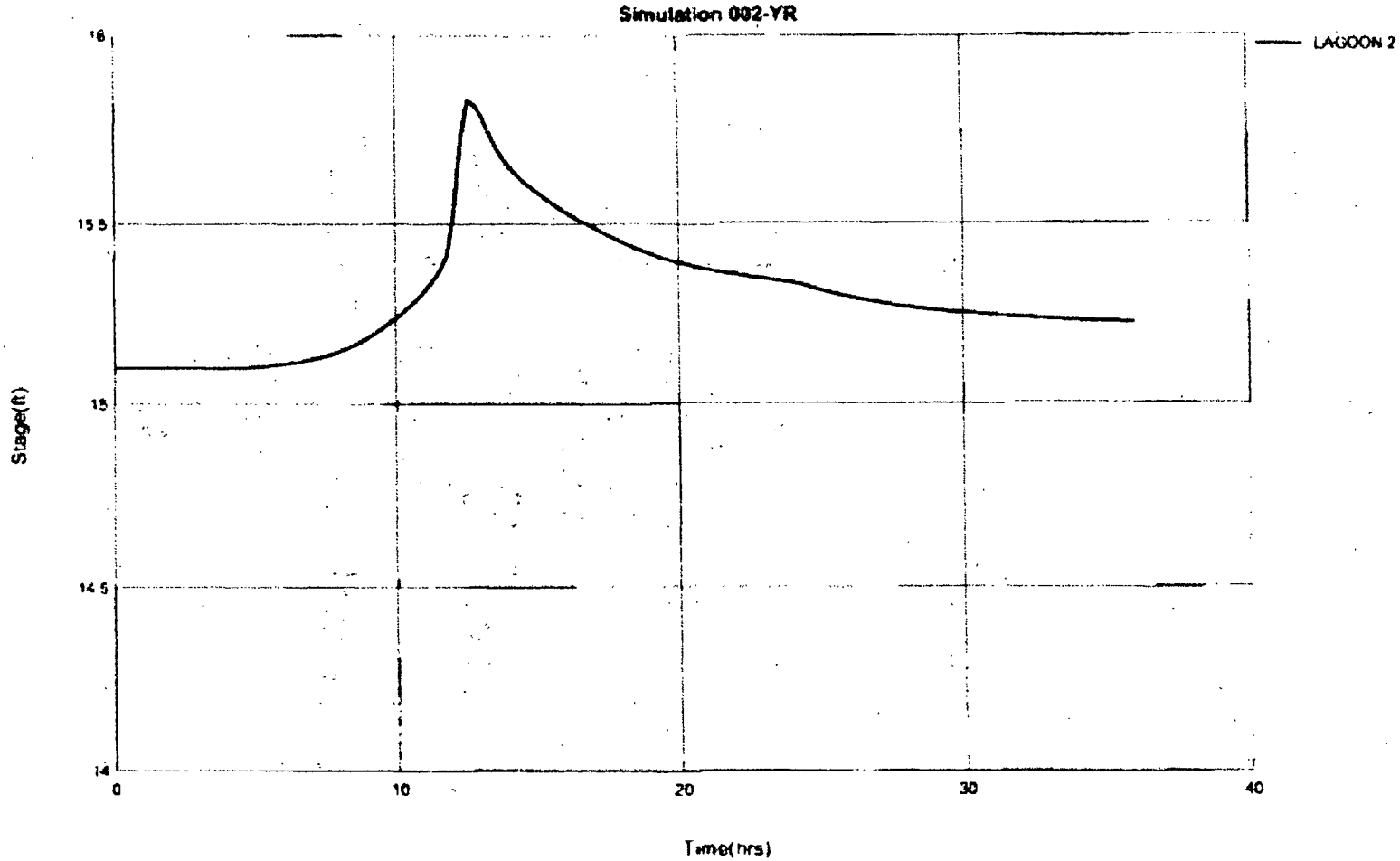


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899000

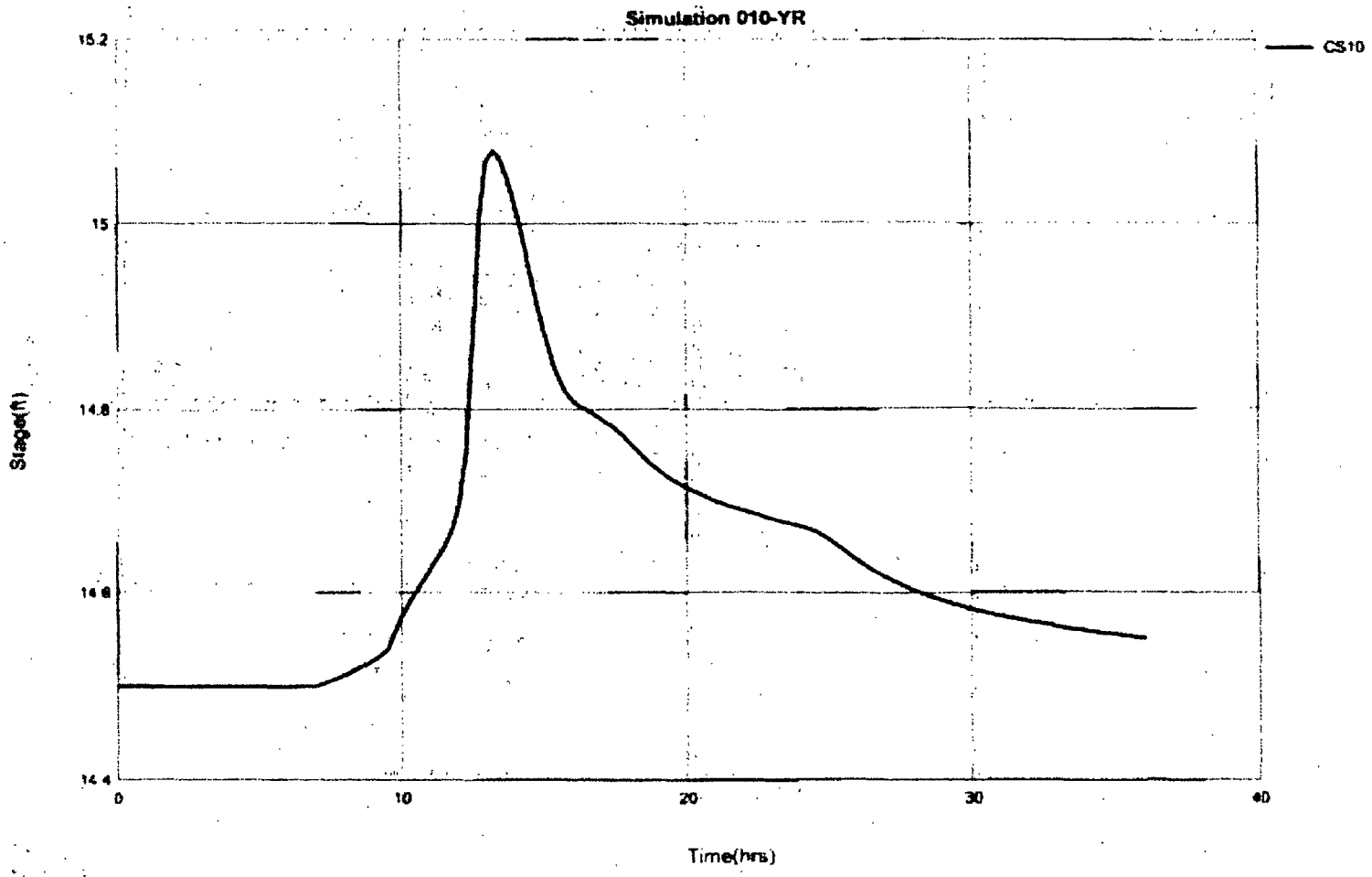
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RED OAK PASS 2
Post Development
Time vs Stage
2-6-09



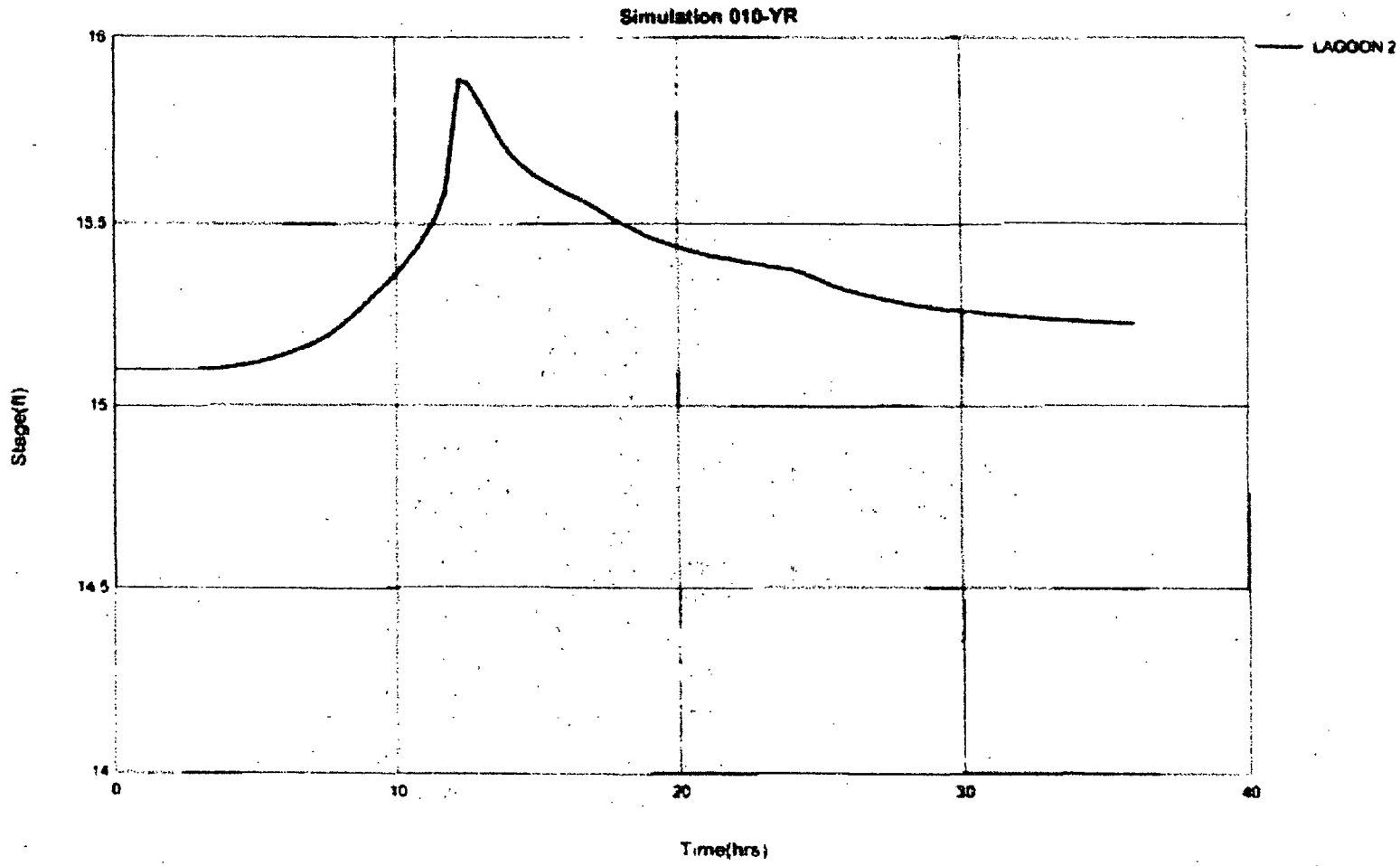
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RED OAKS PHASE 3
Post Development
Time vs. Stage
2-6-09



000670

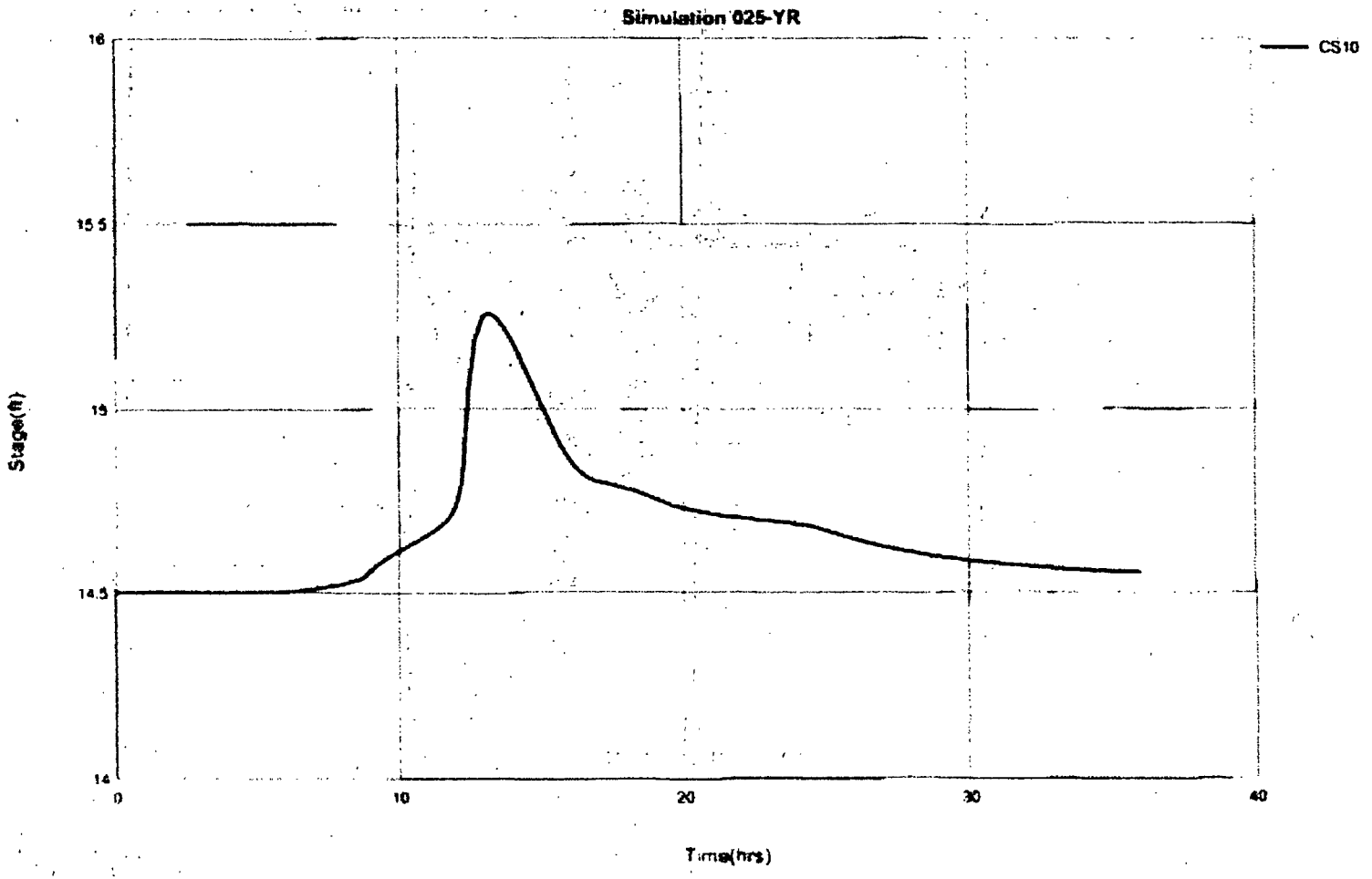
RED OAKS PHASE 2
Post Development
Time vs. Stage
2-6-09



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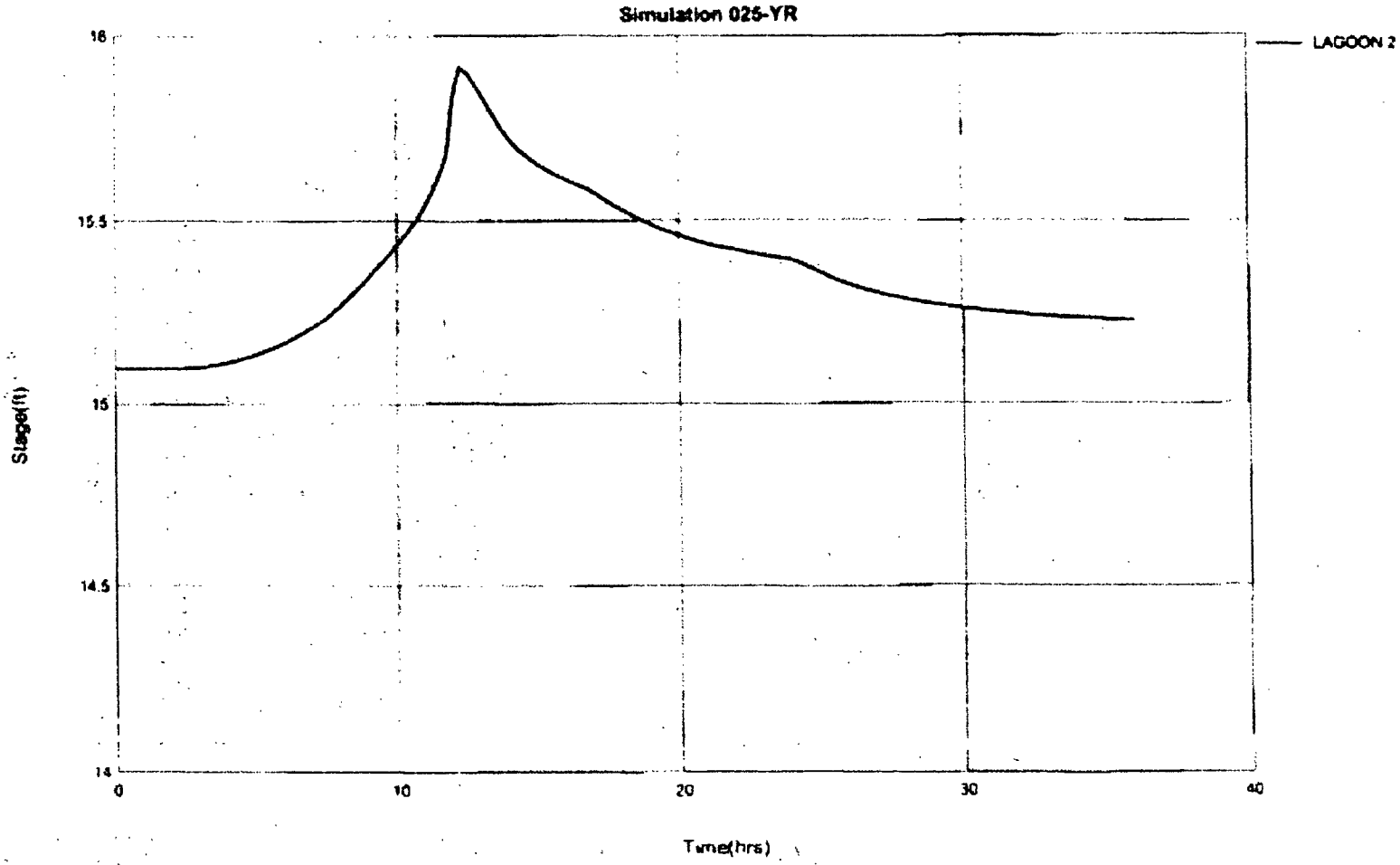
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R23 CASE 1
Post Development
Time vs. Stage
2 6-00



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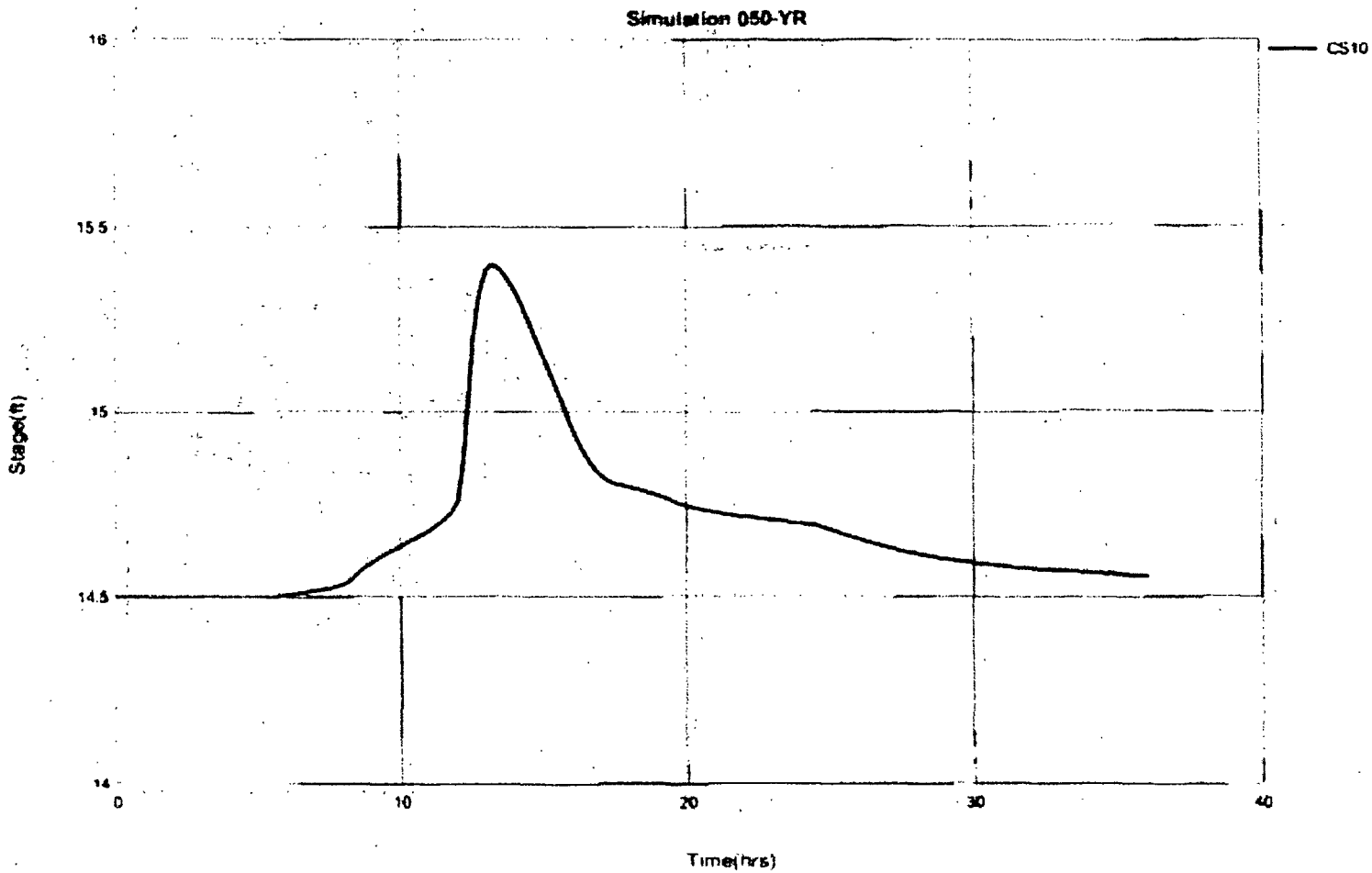
FOD LAKES PHASE 3
Post Development
Time vs Stage
2-6 09



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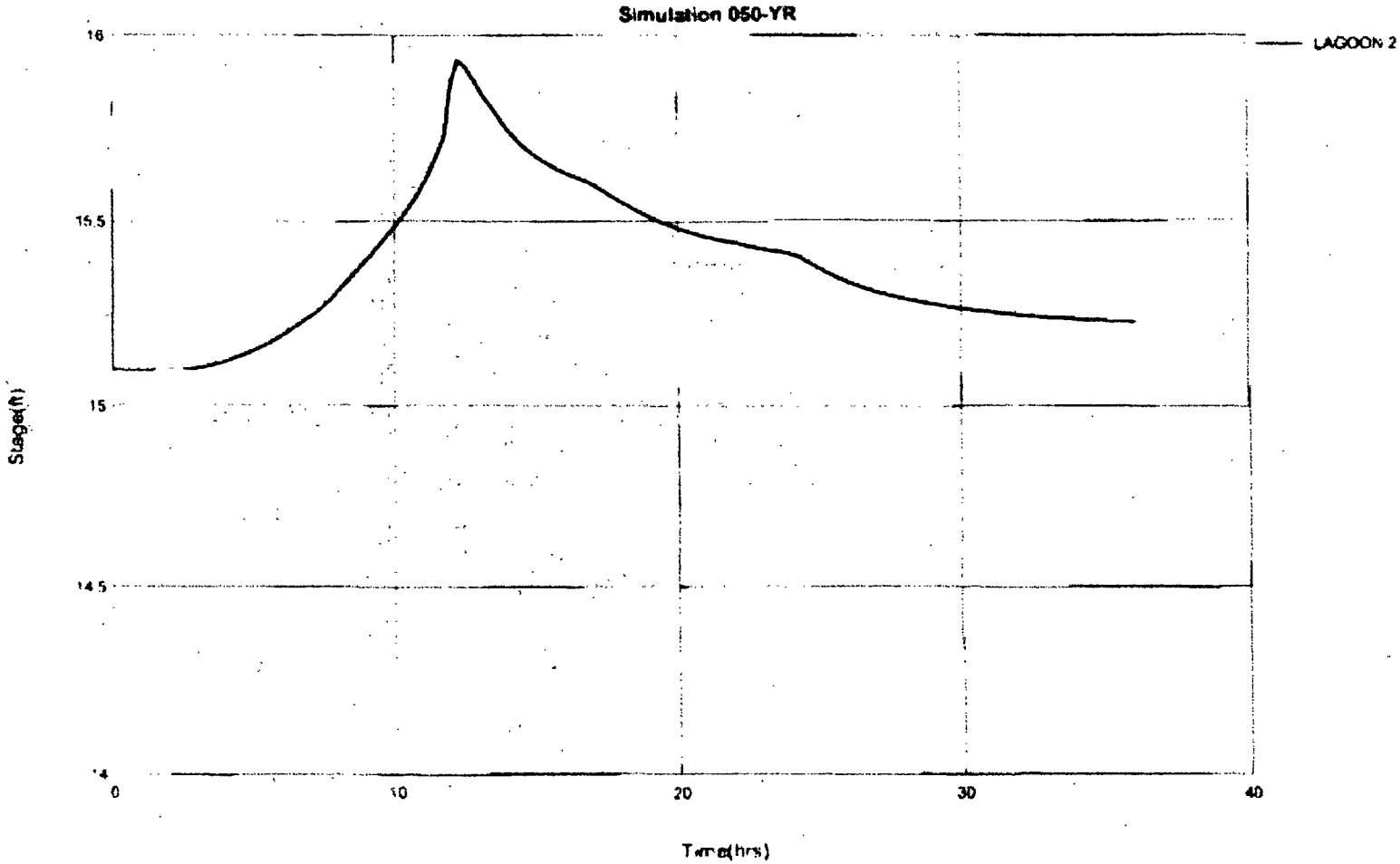
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RED OAKS PHASE I
Post Development
Time vs. Stage
2-6-09



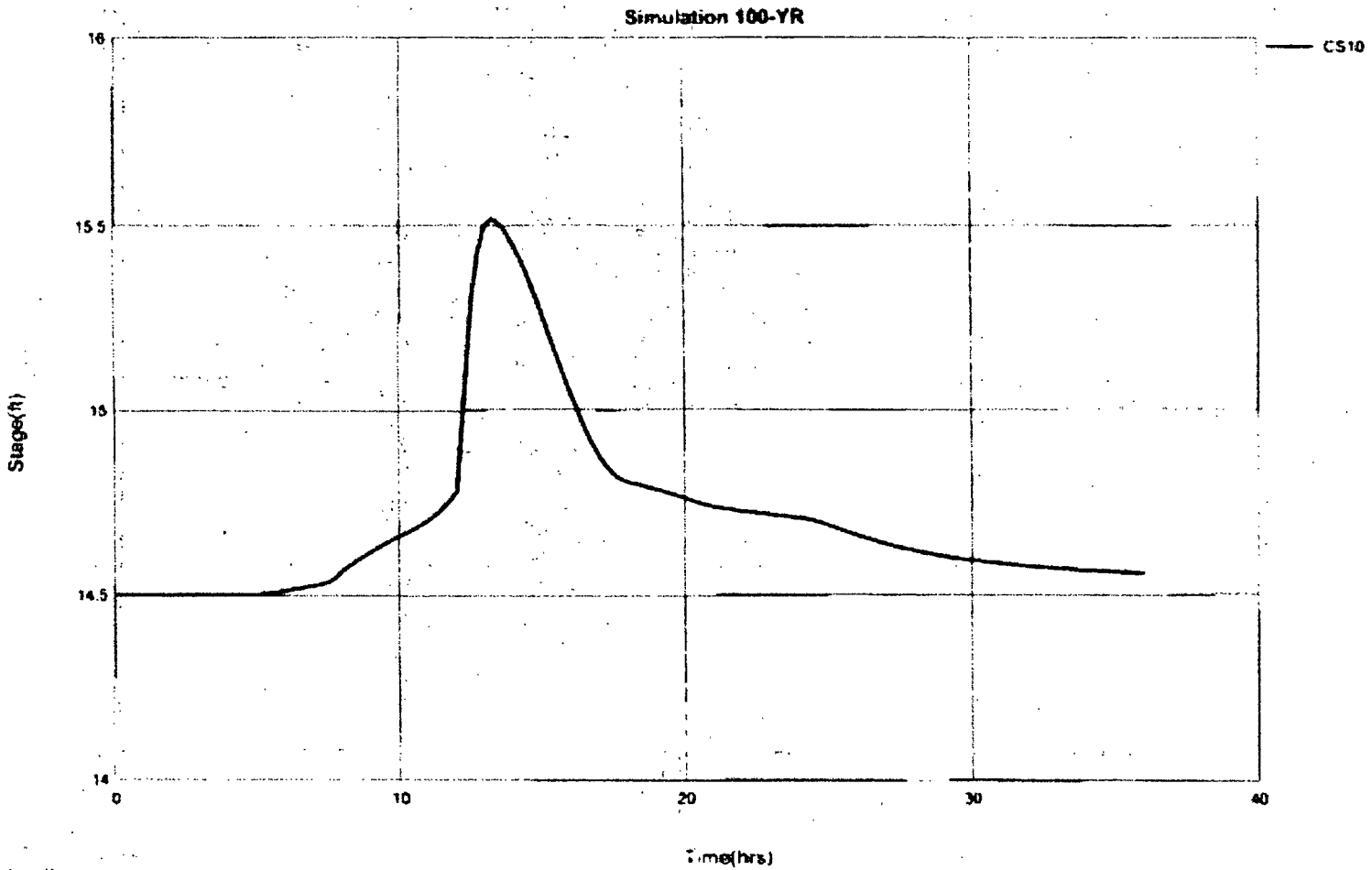
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FED CANAL PHASE 3
Post Development
Time vs Stage
2-6-09



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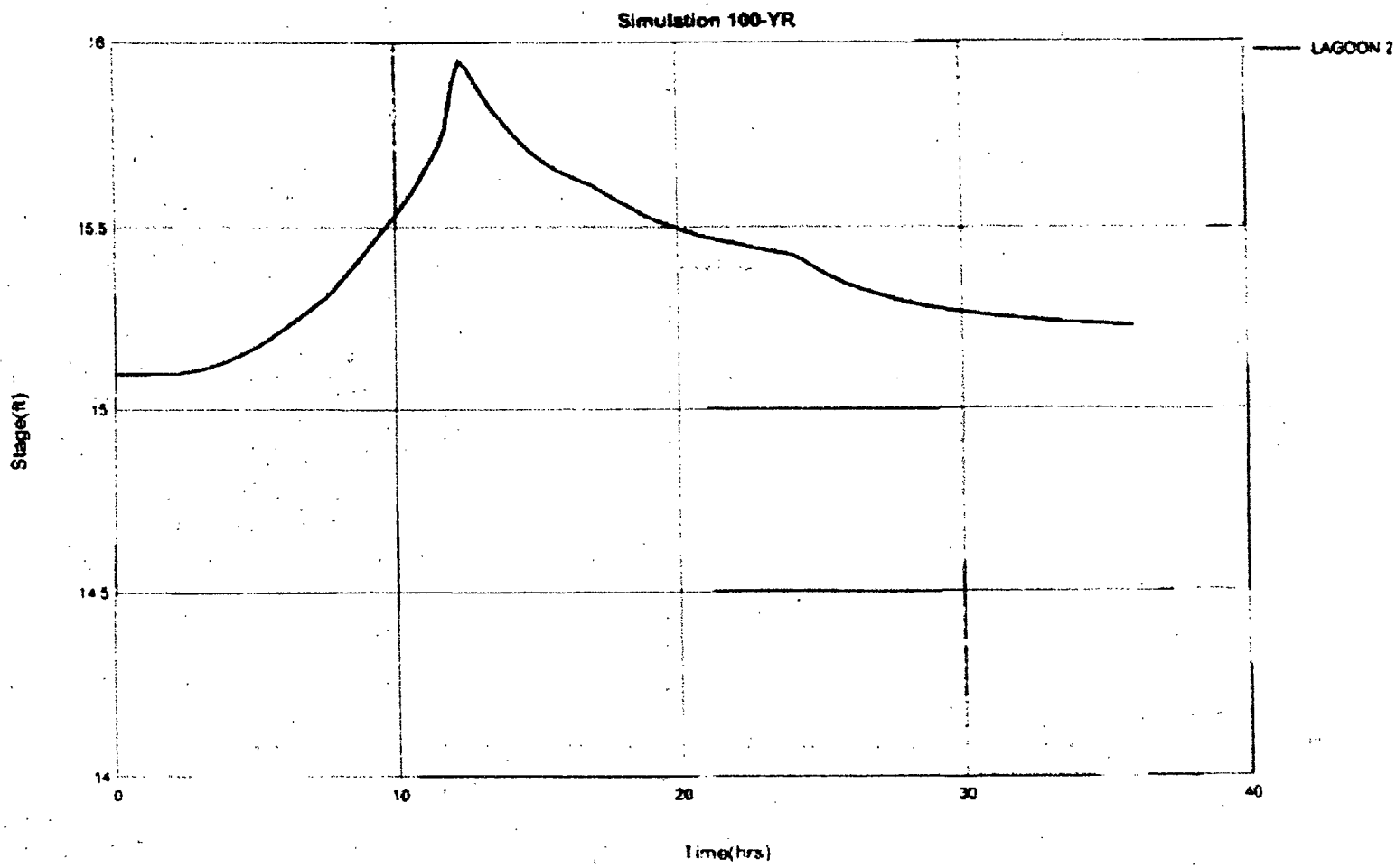
R.D. OASS PHASE 3
Post Development
7.5a vs. Stage
2-6-09



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000676

RED OAKS PHASE I
Post Development
Time vs. Stage
2-6-09



Unsteady Channel and Pond Routing Model (UCPR) 2007 Streamline Technologies, Inc.

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Red Oaks Plaza
Phase 3
Hardeeville, SC

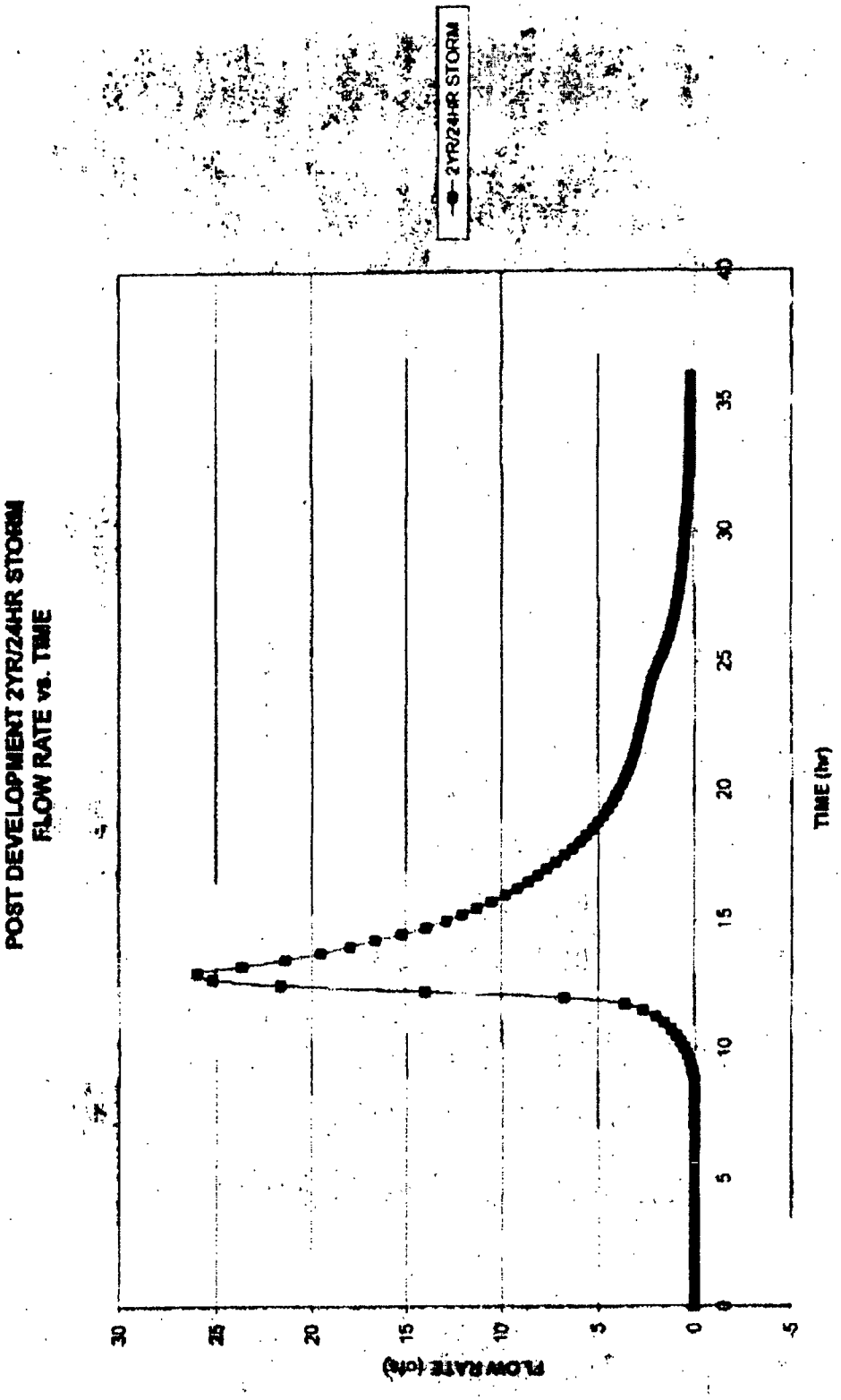
Appendix F

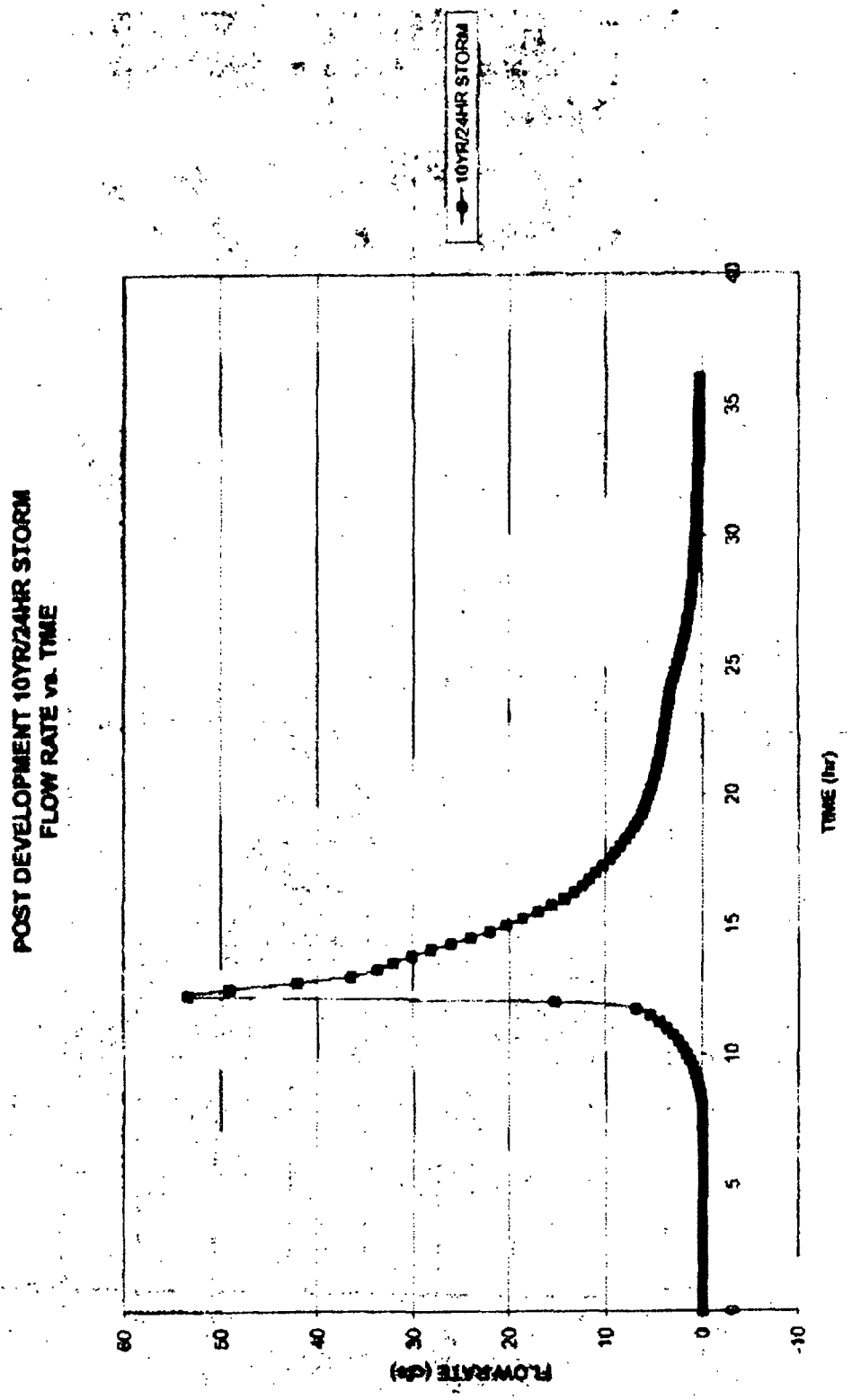
Composite Post Development Hydrographs

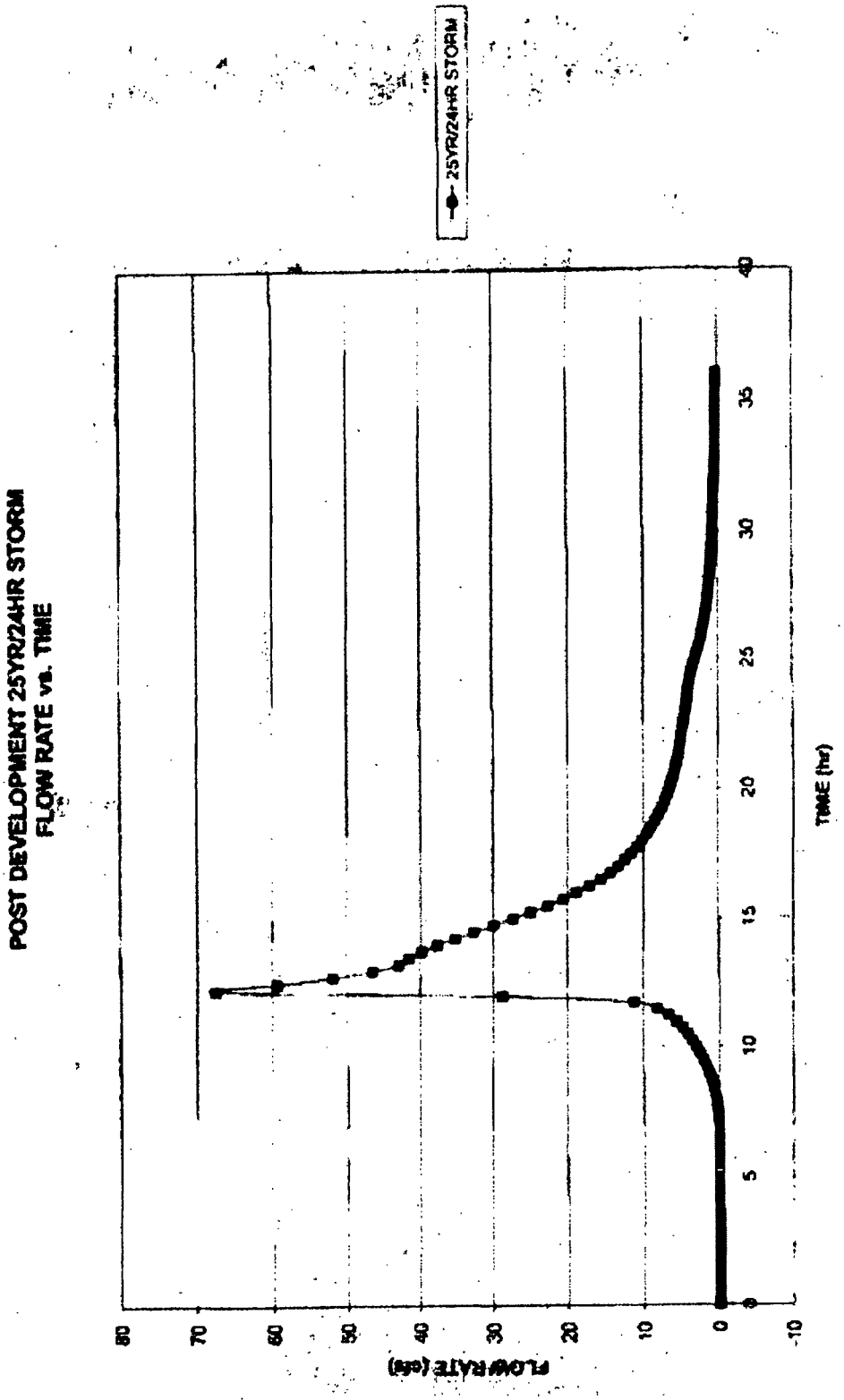
Prepared By

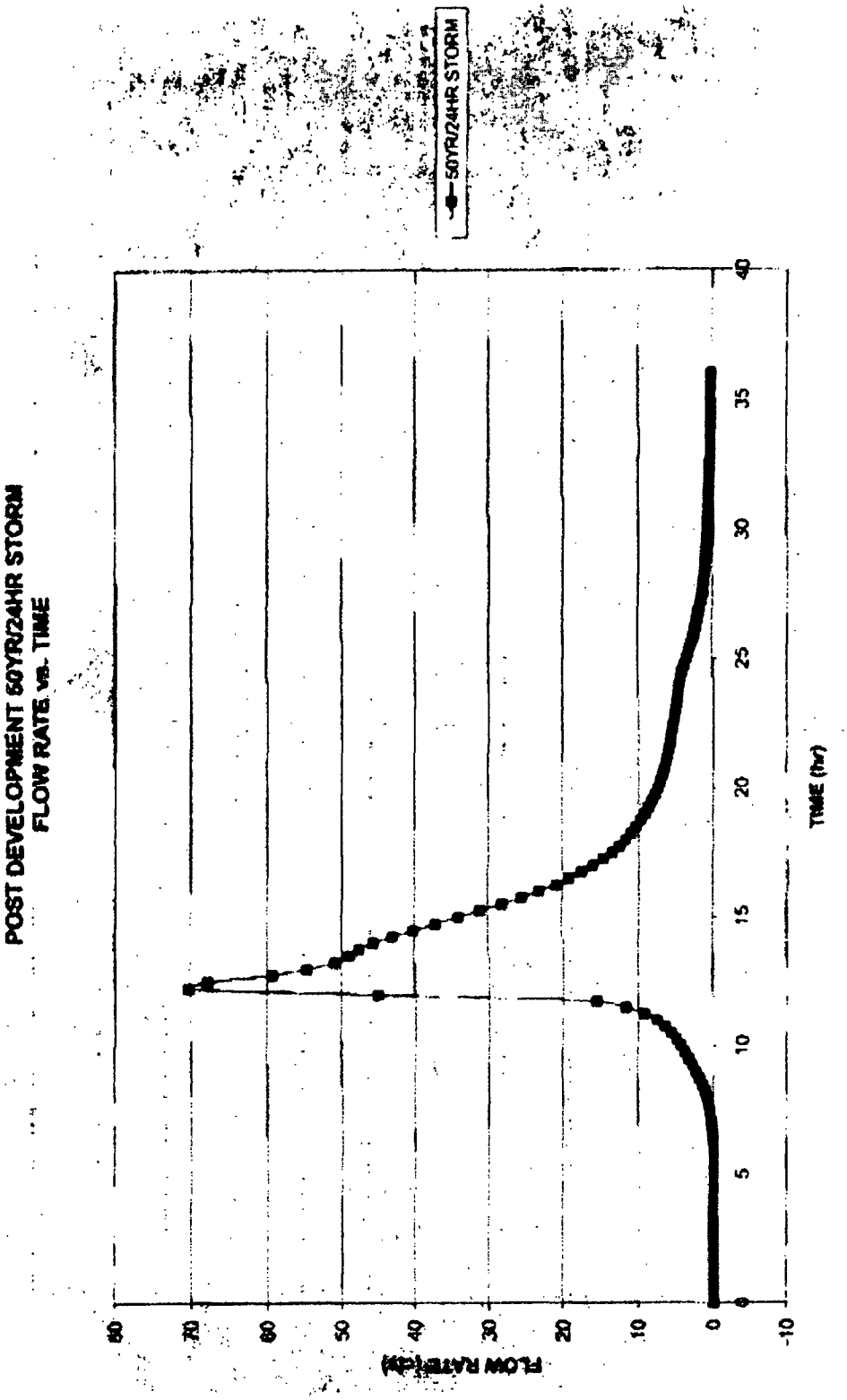
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POST DEVELOPMENT 2YR/24HR STORM
FLOW RATE vs. TIME
2YR/24HR STORM
FLOW RATE (cfs)
TIME (hr)
30
25
20
15
10
5
0
-5
0
5
10
15
20
25
30
35
40

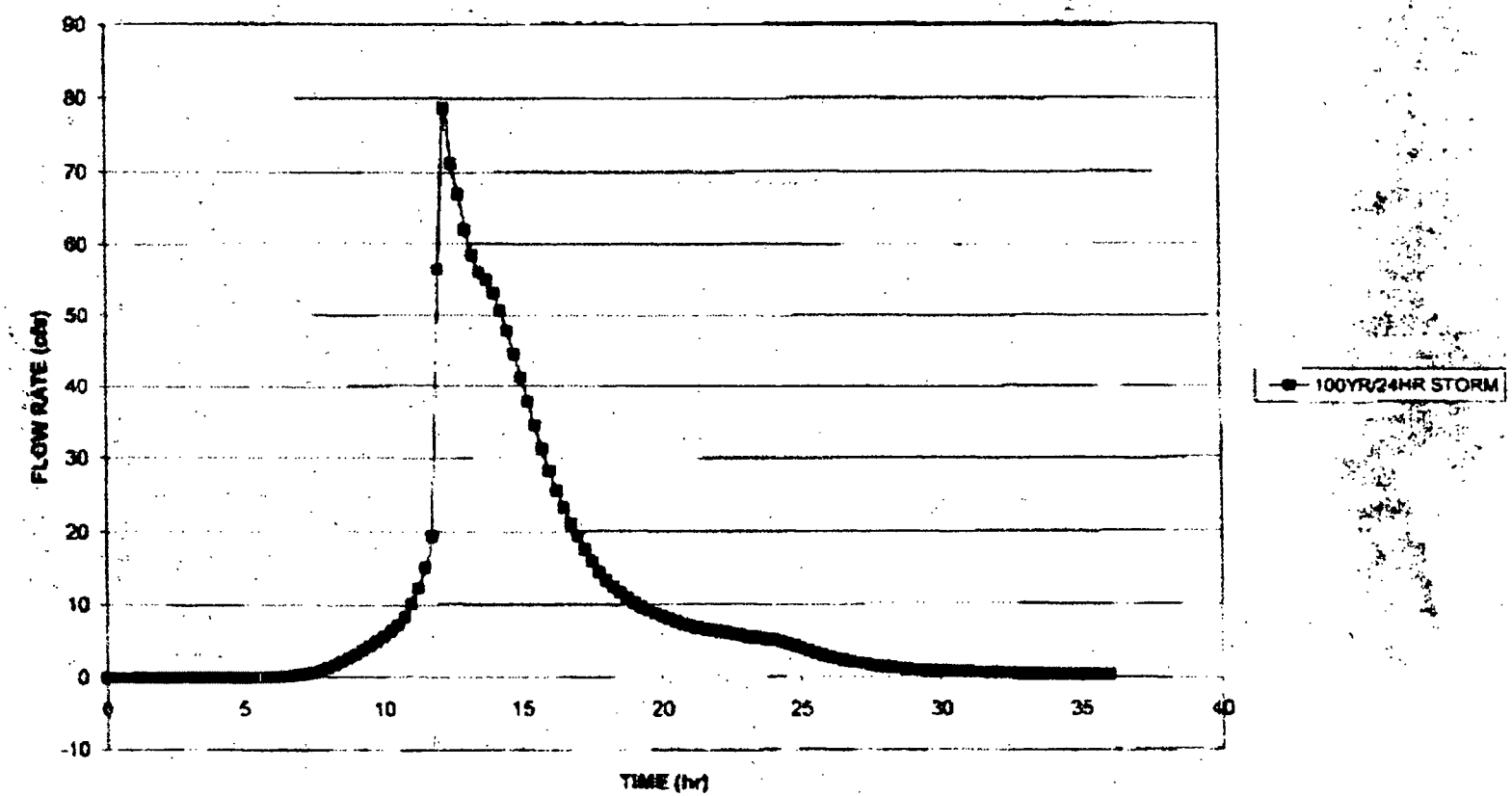

POST DEVELOPMENT 10YR/24HR STORM
FLOW RATE vs. TIME
10YR/24HR STORM
FLOWRATE (cfs)
TIME (hr)
60
50
40
30
20
10
0
-10
0
5
10
15
20
25
30
35
40


POST DEVELOPMENT 25YR/24HR STORM
FLOW RATE vs. TIME
25YR/24HR STORM
FLOW RATE (cfs)
TIME (hr)
80
70
60
50
40
30
20
10
0
-10
0
5
10
15
20
25
30
35
40


POST DEVELOPMENT 50YR/24HR STORM
FLOW RATE vs. TIME
50YR/24HR STORM
FLOW RATE(cfs)
TIME (hr)
60
50
40
30
20
10
0
-10
0
5
10
15
20
25
30
35
40

000683

POST DEVELOPMENT 100YR/24HR STORM
FLOW RATE vs. TIME



Red Oaks Plaza
Phase 3
Hardeeville, SC

Appendix G

Water Quality and Sediment Trapping Calculations

Prepared By

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J-21099

RED OAKS PLAZA
JASPER COUNTY
OTG Holdings, LLC.
THOMAS & HUTTON ENGINEERING CO.
QUALITY STORAGE CALCULATIONS

DATE: 3-Feb-09
BY: DKC
JOB.: 21099

The Outfall for Red Oaks Plaza is not located within 1000' of shellfish beds and thus we are required to store and release 1.0" over the developed area or 0.5" over the entire area(which ever is greater) The post-development drainage basin being released at the Outfall contains a pond within it to attenuate stormwater run-off The drainage basin shown on the Post Development Stormwater Plan at the end of this report. Pond 1 will release stormwater to the Outfall for this phase of construction. The depth of water to be released will be added to the static water elevation of the lagoon within the developed area and the hydrology simulation will be run to determine if there is enough quality storage in the system

REQUIRED QUALITY STORAGE

Outfall

Developed Area:

			Lot and Right of Way Acreage=	15.30 acres
			Total Lagoon Acreage=	3.10 acres
			Total Developed Area=	18.40 acres
			Total Developed Area 1=	**801,504 sf**
801,504 sf	**X**	**1.0 inch**	**=**	**66,792 cf**

Entire Site Area:

			Total Site Acreage=	21.50 acres
			Total Wetland Acreage=	0.00 acres
			Total Site Acreage(not including wetlands)=	21.50 acres
			Total Site Area(not including wetlands)=	**936,540 sf**
936,540 sf	**X**	**0.5 inch**	**=**	**39,335 cf**

Therefore we will use 1.0 inch over the developed area as **66,792** > 39,335

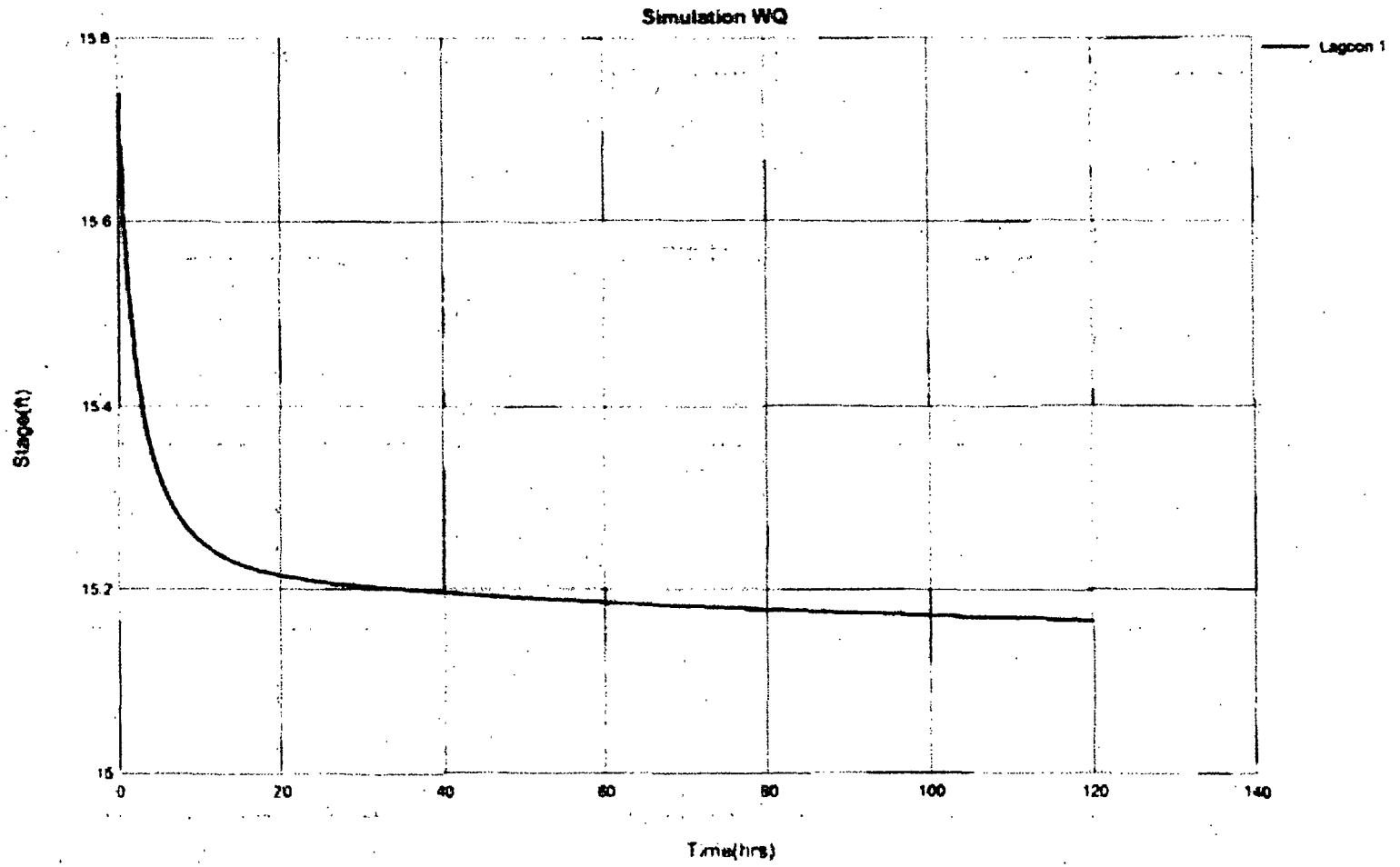
AVAILABLE QUALITY STORAGE AT OUTFALL

Lagoon acreage at Normal Water Elevation=	7.40 acres
Lagoon acreage at Normal Water Elevation=	**104,544 sf**

We must calculate the depth of water that must be stored and released in a 24hr period

Required Quality Storage=	66,792 cf
Lagoon acreage at Normal Water Elevation=	104,544 sf
Depth of Water to be stored and released over 24hrs=	**0.64 ft**

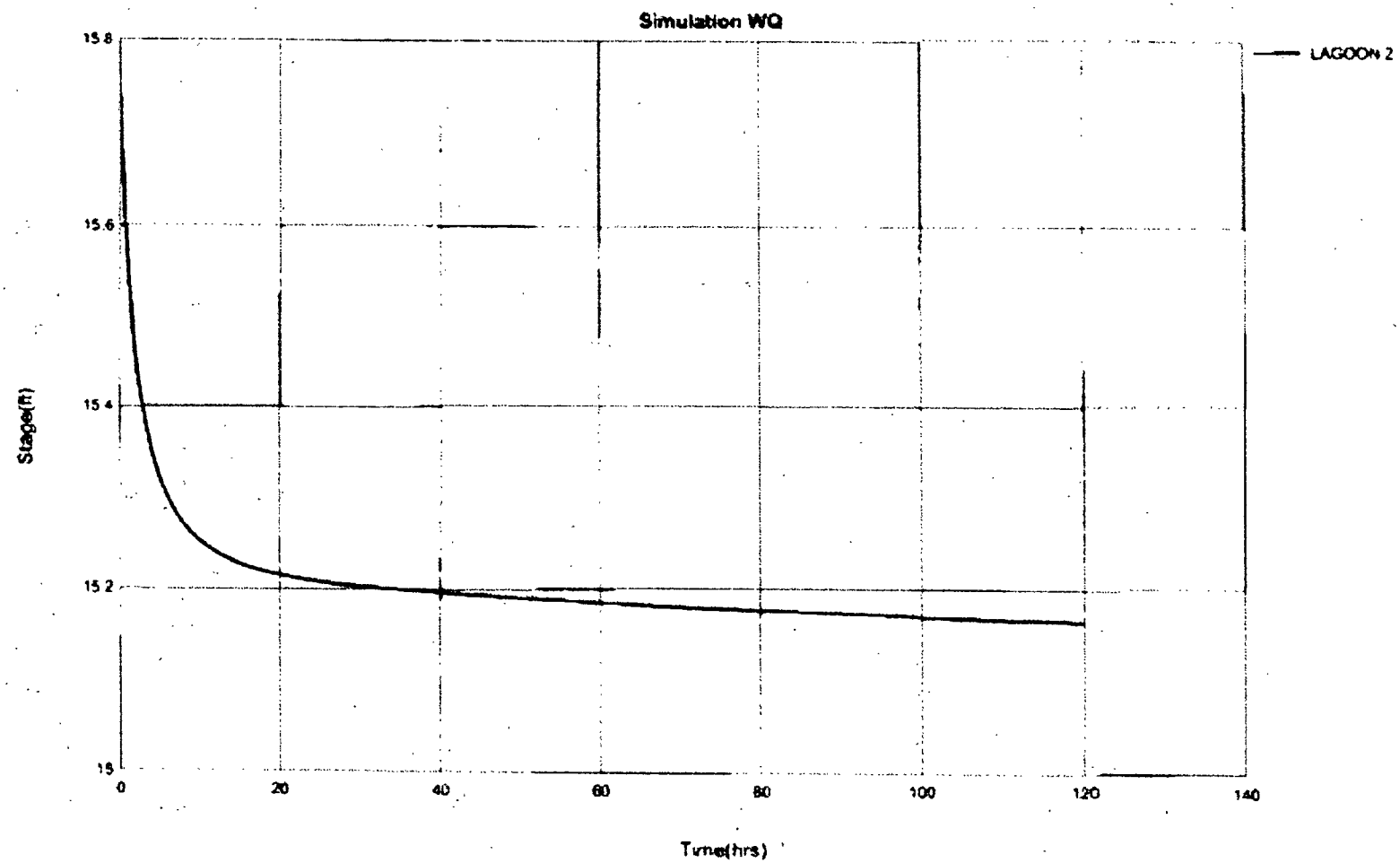
RED OAKS PHASE 3
Post Development
Time vs Stage
2-6-09



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989000

RETREAT PHASE 3
Post Development
Time vs Stage
2-6-09



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Red Oaks Plaza — **Job: 11099**
DTG Holdings LLC. — **Date: 2/4/2009**
Thomas & Hutton Engineering Co. — **By: DKC**
Sediment Trapping Calculations

Drainage Area = 18.40 Acres

Soil Type = Bladen(90%)/Cape Fear(10%)

Provided Particle Diameter (D15) is from Appendix E of the South Carolina DHEC Stormwater management BMP Handbook, August 2005 (Appendices)

Particle Settling Velocity (Vs) is from Figure SV-1 page of the BMP Handbook

D15 = 0.0036 mm

From Figure 1

Vs = 0.0004 fps

Q(pa)	=	44.77 cfs	Peak outflow from lagoon (10 year storm event)
A	=	2.38 Acres	Allowable surface area of lagoon at control elevation
Vs	=	0.0004 fps	Settling Velocity

Calculate the Ratio:

Q(pa) / A x Vs = 47,436

From Appendix K: Figure SB-1 of the BMP Handbook

TRAPPING EFFICIENCY IS APPROXIMATELY EQUAL TO OR GREATER THAN 95%

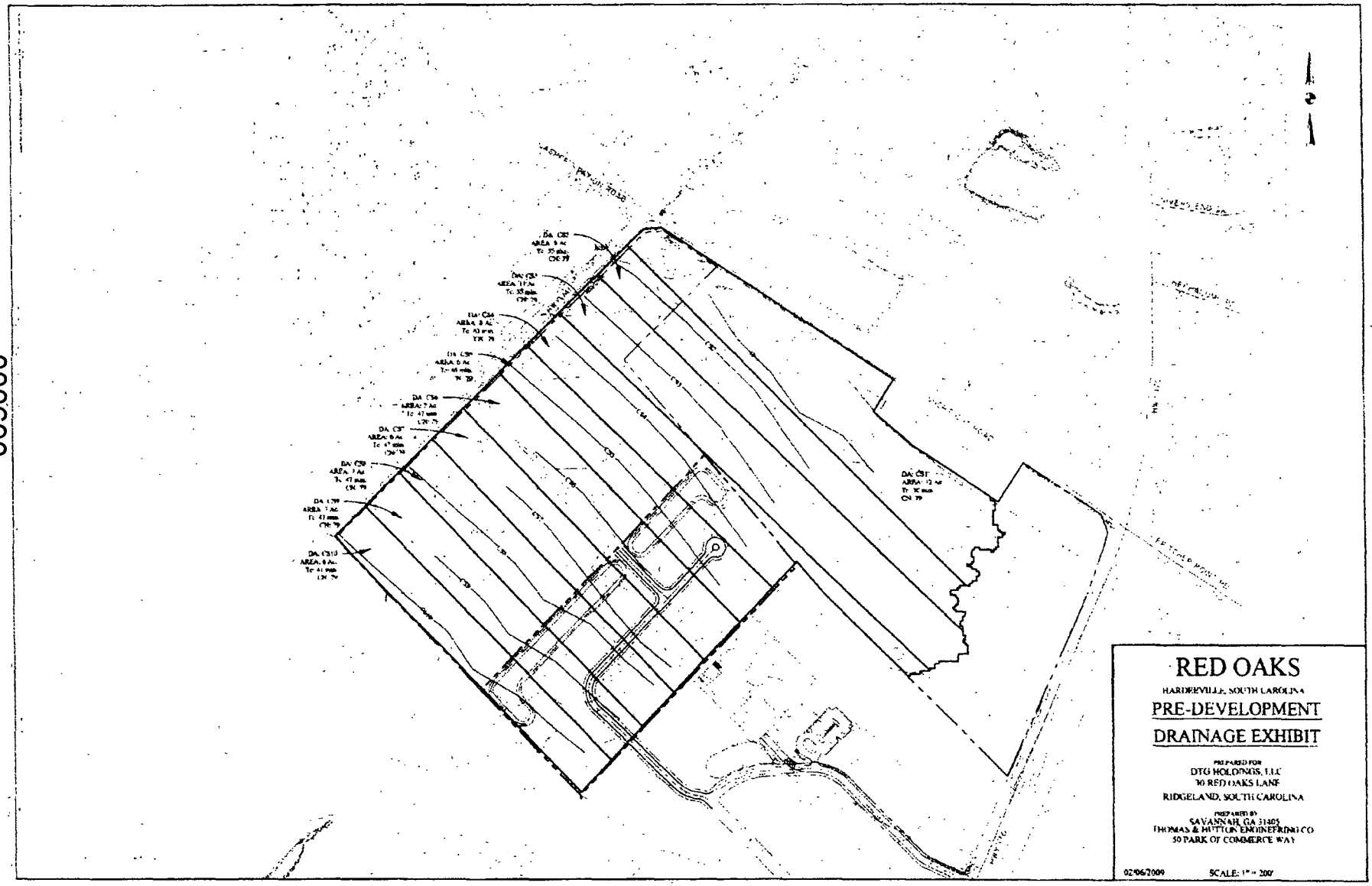
Red Oaks Phase 3
DTG Holdings LLC
Thomas & Hutton Engineering Co
Sediment Trapping Calculations

Date: 6-Feb-09
By: DKC
Job: 21099

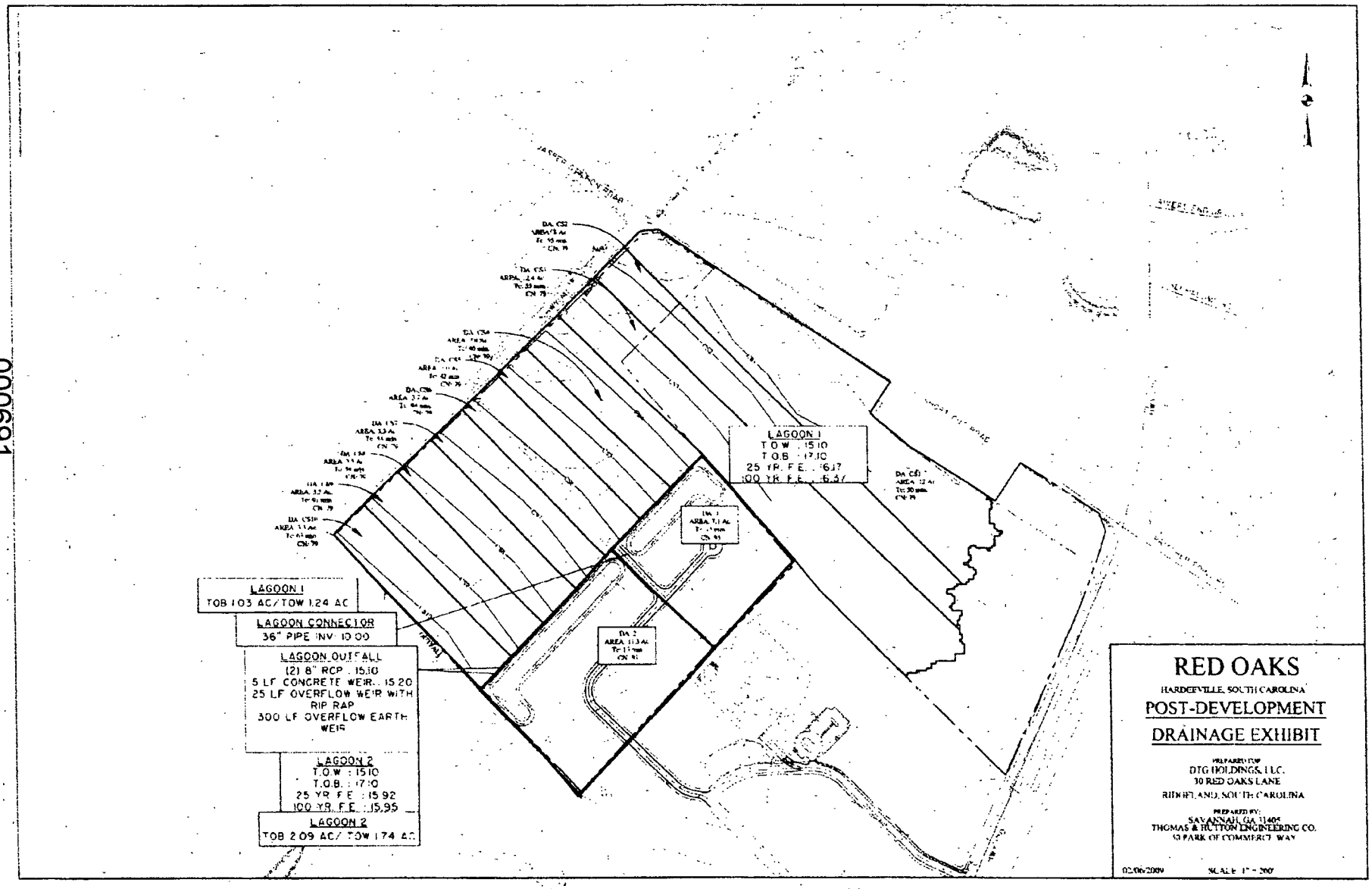
Basin	Area (acres)	Soil Type	Eroded Particle Diameter (mm)	Settling Velocity (fps)	10 YR Peak Outflow (cfs)	Allowable Surface Area (Acre)	Ratio	Trapping Efficency
5	23	Bladen(90%)/Cape Fear(10%)	0.0036	0.00040	44.8	2.36	47.426	93%

689000

069000


RED OAKS
HARDEEVILLE, SOUTH CAROLINA
PRE-DEVELOPMENT
DRAINAGE EXHIBIT
PREPARED FOR
DTG HOLDINGS, LLC
30 RED OAKS LANE
RIDGELAND, SOUTH CAROLINA
PREPARED BY
SAVANNAH, GA 31405
THOMAS & HUTTON ENGINEERING CO
50 PARK OF COMMERCE WAY
02/06/2009
SCALE: 1" = 200'

169000


LAGOON 1
TOW : 15.10
T.O.B. : 17.10
25 YR. F.E. : 16.17
100 YR. F.E. : 16.47
LAGOON 1
TOB 1.03 AC/TOW 1.24 AC
LAGOON CONNECTOR
36" PIPE INV: 10.00
LAGOON OUTFALL
(2) 8' RCP : 15.10
5 LF CONCRETE WEIR : 15.20
25 LF OVERFLOW WEIR WITH RIP RAP
300 LF OVERFLOW EARTH WEIR
LAGOON 2
T.O.W. : 15.10
T.O.B. : 17.10
25 YR. F.E. : 15.92
100 YR. F.E. : 15.95
LAGOON 2
TOB 2.09 AC/ TOW 1.74 AC
RED OAKS
HARDEEVILLE, SOUTH CAROLINA
POST-DEVELOPMENT
DRAINAGE EXHIBIT
PREPARED FOR
DTG HOLDINGS, LLC.
30 RED OAKS LANE
RIDGELAND, SOUTH CAROLINA
PREPARED BY:
SAVANNAH, GA 31405
THOMAS & HUTTON ENGINEERING CO.
50 PARK OF COMMERCE WAY
02/06/2009
SCALE 1" = 200'

DEPARTMENT OF THE ARMY
CHARLESTON DISTRICT, CORPS OF ENGINEERS
69A Hagood Avenue
CHARLESTON, SOUTH CAROLINA 29403-5107

REPLY TO
ATTENTION OF

January 16, 2009

Regulatory Division

Mr. Asher Howell
Newkirk Environmental, Incorporated
Post Office Box 309
Bluffton, South Carolina 29910

Re: SAC 2008-1981-1JQ
Jasper County

Dear Mr. Howell:

This is in response to your letter of November 18, 2008, requesting a wetland determination, on behalf of Mr. D Lynch, for 18.41-acre tract located southeast of the intersection of Jasper Station Road (S-27-162) and S-27-141, in the Okatee area of Jasper County, South Carolina. The project area is depicted on the survey plat you submitted which was prepared by TG Stanley, signed: *10-30-08*, and entitled: *"This Plat Prepared At The Request Of / Jasper Station Associates, LLC / A Boundary Survey Of A 18.41 Acre Tract, / Being A Portion Of Tax Map #080-00 03 065, / Near Cherry Point, Jasper County, South Carolina"*. This site is a portion of a larger tract verified by this office in August, 2005, as reference # *SAC 81-2005-1981*.

Based on the August, 2005, on-site inspection and a review of aerial photography and soil survey information, it has been determined that the referenced property does not contain any wetland areas or other waters of the United States and, as such, Department of the Army authorization will not be required for mechanized land clearing, excavation, or the placement of dredged or fill material on this site.

Please be advised that this determination is valid for five (5) years from the date of this letter unless new information warrants revision of the delineation before the expiration date. All actions concerning this determination must be complete within this time frame, or an additional delineation must be conducted. For the purposes of 33 CFR 331.2, this is considered to be an approved jurisdictional determination.

In future correspondence concerning this matter, please refer to SAC 2008-1981-1JQ. A copy of this letter is being forwarded to the South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management for their information.

If you have any questions concerning this matter, please contact Paul Hinchcliff at 843-329-8044 or toll free at 1-866-329-8187.

Respectfully,

Charles R. Crosby
Chief, South Branch

Enclosure:
Basis for Jurisdiction

Copy Furnished:
South Carolina Department of Health
and Environmental Control
Office of OCRM
1362 McMillan Avenue, Suite 400
Charleston, South Carolina 29405

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

...form should be completed by following the instructions provided in Section IV of the JD Form Instructions Guidebook.

SECTION I: BACKGROUND INFORMATION

A REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): January 13, 2009

B DISTRICT OFFICE, FILE NAME, AND NUMBER: SAC_Charleston / Jasper_Jasper station B / SAC 2008 2188-1JH

C PROJECT LOCATION AND BACKGROUND INFORMATION:
State SC County/parish/borough: Jasper City: Okatee
Center coordinates of site (lat/long in degree decimal format): Lat. 32.32850° N, Long. -80.93775° W.
Universal Transverse Mercator:
Name of nearest waterbody: Okatee River
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: n/a
Name of watershed or Hydrologic Unit Code (HUC): 03050208-090
☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

D REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☒ Office (Desk) Determination. Date: 13jan09
☒ Field Determination. Date(s): aug05

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There Are no "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]
☐ Waters subject to the ebb and flow of the tide.
☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There Are no "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.
a. Indicate presence of waters of U.S. in review area (check all that apply):[1]
☐ TNWs, including territorial seas
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:
Non-wetland waters: linear feet: width (ft) and/or acres.
Wetlands: acres.

c. Limits (boundaries) of jurisdiction based on: Pick List
Elevation of established OHWM (if known):

2. Non-regulated waters/wetlands (check if applicable):[3]
☐ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain:

[1] Boxes checked below shall be supported by completing the appropriate sections in Section III below.
[2] For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
[3] Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW
   Identify TNW

   Summarize rationale supporting determination.

2. Wetland adjacent to TNW
   Summarize rationale supporting conclusion that wetland is "adjacent"

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody[9] is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

   (i) General Area Conditions:
   Watershed size: Pick List
   Drainage area: Pick List
   Average annual rainfall: inches
   Average annual snowfall: inches

   (ii) Physical Characteristics:
   (a) Relationship with TNW
   ☐ Tributary flows directly into TNW.
   ☐ Tributary flows through Pick List tributaries before entering TNW

   Project waters are Pick List river miles from TNW
   Project waters are Pick List river miles from RPW
   Project waters are Pick List aerial (straight) miles from TNW
   Project waters are Pick List aerial (straight) miles from RPW
   Project waters cross or serve as state boundaries. Explain.

   Identify flow route to TNW[10]
   Tributary stream order, if known.

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[9] The Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

[10] Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into

(b) General Tributary Characteristics (check all that apply)

Tributary is: ☐ Natural
☐ Artificial (man-made). Explain:
☐ Manipulated (man-altered). Explain:

Tributary properties with respect to top of bank (estimate)
Average width: feet
Average depth: feet
Average side slopes: Pick List.

Primary tributary substrate composition (check all that apply):
☐ Silts ☐ Sands ☐ Concrete
☐ Cobbles ☐ Gravel ☐ Muck
☐ Bedrock ☐ Vegetation. Type/% cover:
☐ Other. Explain

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain:
Presence of run/riffle/pool complexes. Explain:
Tributary geometry: Pick List
Tributary gradient (approximate average slope): %

(c) Flow:

Tributary provides for: Pick List
Estimate average number of flow events in review area/year: Pick List
Describe flow regime:
Other information on duration and volume:

Surface flow is: Pick List. Characteristics:

Subsurface flow: Pick List. Explain findings.
☐ Dye (or other) test performed:

Tributary has (check all that apply):
☐ Bed and banks
☐ OHWM[6] (check all indicators that apply):
☐ clear, natural line impressed on the bank
☐ changes in the character of soil
☐ shelving
☐ vegetation matted down, bent, or absent
☐ leaf litter disturbed or washed away
☐ sediment deposition
☐ water staining
☐ other (list):
☐ the presence of litter and debris
☐ destruction of terrestrial vegetation
☐ the presence of wrack line
☐ sediment sorting
☐ scour
☐ multiple observed or predicted flow events
☐ abrupt change in plant community
☐ Discontinuous OHWM.[7] Explain:

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):
☐ High Tide Line indicated by:
☐ oil or scum line along shore objects
☐ fine shell or debris deposits (foreshore)
☐ physical markings/characteristics
☐ tidal gauges
☐ other (list):
☐ Mean High Water Mark indicated by:
☐ survey to available datum;
☐ physical markings;
☐ vegetation lines/changes in vegetation types.

(d) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain:
Identify specific pollutants, if known:

[6] A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

(ii) Biological Characteristics. Channel supports (check all that apply):
- ☐ Riparian corridor. Characteristics (type, average width):
- ☐ Wetland fringe. Characteristics:
- ☐ Habitat for:
  - ☐ Federally Listed species. Explain findings:
  - ☐ Fish/spawn areas. Explain findings:
  - ☐ Other environmentally-sensitive species. Explain findings:
  - ☐ Aquatic/wildlife diversity. Explain findings:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: acres

Wetland type. Explain:

Wetland quality. Explain:

Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:

Flow is: Pick List. Explain:

Surface flow is: Pick List

Characteristics:

Subsurface flow: Pick List. Explain findings:

☐ Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Directly abutting
- ☐ Not directly abutting
  - ☐ Discrete wetland hydrologic connection. Explain:
  - ☐ Ecological connection. Explain:
  - ☐ Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW

Project wetlands are Pick List river miles from TNW

Project waters are Pick List aerial (straight) miles from TNW

Flow is from: Pick List.

Estimate approximate location of wetland as within the Pick List floodplain.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics, etc.). Explain:

Identify specific pollutants, if known:

(iii) Biological Characteristics. Wetland supports (check all that apply):

- ☐ Riparian buffer. Characteristics (type, average width):
- ☐ Vegetation type/percent cover. Explain:
- ☐ Habitat for:
  - ☐ Federally Listed species. Explain findings:
  - ☐ Fish/spawn areas. Explain findings:
  - ☐ Other environmentally sensitive species. Explain findings:
  - ☐ Aquatic/wildlife diversity. Explain findings:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in the cumulative analysis: Pick List

Approximately ( ) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)

Summarize overall biological, chemical and physical functions being performed

SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for aquatic species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:
   - ☐ TNWs: linear feet, width (ft), Or, acres.
   - ☐ Wetlands adjacent to TNWs: acres.

2. RPWs that flow directly or indirectly into TNWs.
   - ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial:
   - ☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

Provide estimates for jurisdictional waters in the review area (check all that apply):
- ☐ Tributary waters: linear feet, width (ft).
- ☐ Other non-wetland waters: acres.
  - Identify type(s) of waters:

3. Non-RPWs[8] that flow directly or indirectly into TNWs.
   - ☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional waters within the review area (check all that apply):
   - ☐ Tributary waters: linear feet, width (ft).
   - ☐ Other non-wetland waters: acres.
     - Identify type(s) of waters:

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.
   - ☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
   - ☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:
   - ☐ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:

   Provide acreage estimates for jurisdictional wetlands in the review area: acres.

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.
   - ☐ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide acreage estimates for jurisdictional wetlands in the review area: acres.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.
   - ☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional wetlands in the review area: acres.

7. Impoundments of jurisdictional waters.[9]
   As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.
   - ☐ Demonstrate that impoundment was created from "waters of the U.S.," or
   - ☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
   - ☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):[10]
- ☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
- ☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- ☐ which are or could be used for industrial purposes by industries in interstate commerce.
- ☐ Interstate isolated waters. Explain:
- ☐ Other factors. Explain:

Identify water body and summarize rationale supporting determination:

---

[8] See Footnote # 3.

[9] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

[10] Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA *Memorandum Regarding CWA Act Jurisdiction Following Rapanos*.

Provide estimates for jurisdictional waters in the review area (check all that apply):

- ☐ Tributary waters: linear feet width (ft).
- ☐ Other non-wetland waters: acres.
  - Identify type(s) of waters:
- ☐ Wetlands: acres.

2. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

- ☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- ☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - ☐ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- ☒ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain:
- ☐ Other: (explain, if not covered above):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource:
- ☐ Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource:
- ☐ Wetlands: acres.

SECTION IV: DATA SOURCES.

1. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant:
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - ☒ Office concurs with data sheets/delineation report.
  - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps:
- ☐ Corps navigable waters' study:
- ☐ U.S. Geological Survey Hydrologic Atlas:
  - ☐ USGS NHD data.
  - ☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: SC/Jasper
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Jasper74.
- ☒ National wetlands inventory map(s). Cite name:
- ☐ State/local wetland inventory map(s):
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): SC99/11211138
  - or ☐ Other (Name & Date):
- ☒ Previous determination(s). File no. and date of response letter: SAC 81-2005-1981 / 08feb06.
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature.
- ☐ Other information (please specify):

3. ADDITIONAL COMMENTS TO SUPPORT JD: The 18.41-acre site is a part of a larger, coastal site delineated by this office in 2005. Since that time, the the original tract has been subdivided and portions of an isolated, non-jurisdictional wetland on the current site have been filled per SC DCRM permit #27-06 08-01. As a result, the site no longer holds wetlands.

Digital Submittal Details for Stormwater Projects Requiring Permits

Date: 2/6/09

Project Name: RED OAKS PLAZA PHASE 3

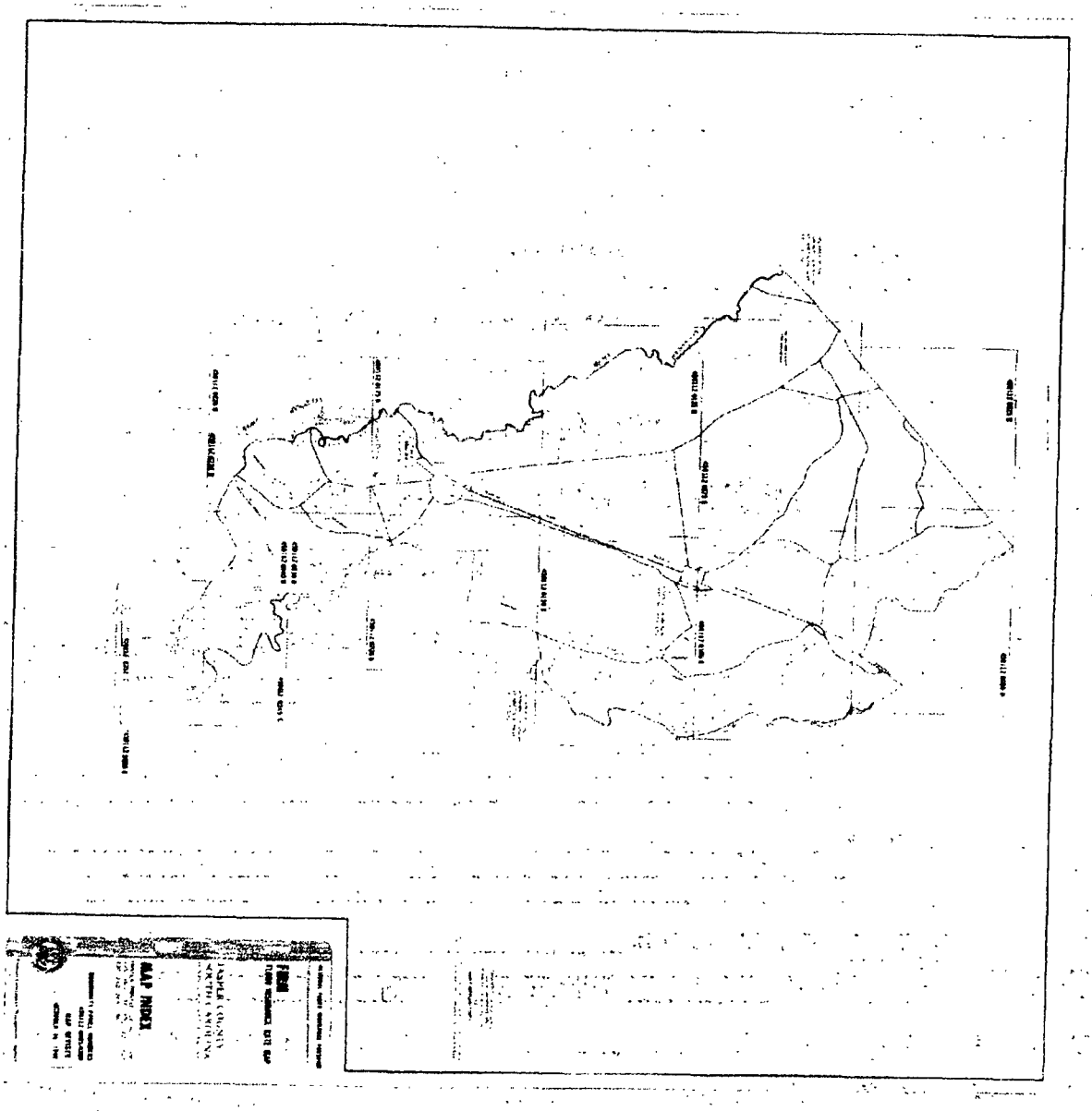
County: JASPER

Parent Parcel#: R080-00-03-065

Prepared by/Firm Name: THOMAS & HUTTON ENGINEERING CO.

Engineer of Record: RYAN M. SMITH
smith.r@thomas-hutton.com

Property Owner (WITH ADDRESS, PHONE NUMBER AND EMAIL)
DTG Holdings LLC
P.O. Box 21299
Hilton Head, SC 29925
(843) 379-5700
Contact: Andy Smith
andys@malphrus.com



D H E C

PROMOTE PROTECT PROSPER
S.C. Department of Health and Environmental Control

Office of Ocean and Coastal Resource Management
1362 McMillan Avenue, Suite 400
Charleston, SC 29405
(843) 747-4323 Fax (843) 744-8772

Permit # _____ EFIS ID # _____

STORMWATER MANAGEMENT AND SEDIMENT REDUCTION SITE INSPECTION REPORT

DATE/TIME: 7/26/07 11:30
PROJECT NAME: Jasper Station
COUNTY: Jasper **WEATHER:** Clear
INSPECTED BY: Josh Young **FOLLOW-UP:** ☐ Yes ☑ No
Type of Inspection: ☑ Initiation of Construction ☐ During Construction/Compliance ☐ Reinspection ☐ Final

CHECK ONE OR MORE:

1. DOES THIS SITE HAVE NPDES COVERAGE? ☐ YES ☑ NO
2. ARE THE APPROVED PLANS ONSITE? ☐ YES ☐ NO
3. ARE NPDES INSPECTION AND MAINTENANCE REPORTS COMPLETE ? ☐ YES ☐ NO ☐ N/A
4. INSTALLATION OF **STORMWATER DEVICES** (PONDS, SWALES, ETC.)? ☐ YES ☑ NO
   A.) PROPER **INSTALLATION** OF STORMWATER MANAGEMENT DEVICES? ☐ YES ☐ NO
   B.) PROPER **MAINTENANCE** OF STORMWATER MANAGEMENT DEVICES? ☐ YES ☐ NO
5. INSTALLATION OF **SEDIMENT CONTROL** (SILT FENCE, CHECK DAMS, ETC.)? ☐ YES ☑ NO
   A.) PROPER **INSTALLATION** OF SEDIMENT CONTROL DEVICES? ☐ YES ☐ NO
   B.) PROPER **MAINTENANCE** OF SEDIMENT CONTROL DEVICES? ☐ YES ☐ NO
6. DISTURBED AREA STABILIZED? ☐ YES ☐ NO (NPDES definition of 70% vegetative cover/acre)
   IF YES, BY WHAT METHOD _____
7. OFFSITE IMPACT TO: ☑ NONE ☐ WETLAND ☐ STREAM/WATERBODY/CRITICAL AREA
   ☐ ROW ☐ ADJOINING PROPERTY OWNER ☐ OTHER

COMMENTS: Inspection conducted to ensure activity did not begin prior to the issuance of the land disturbance permit. No land disturbance present on site.

VIOLATIONS CITED: N/A

CORRECTIVE ACTIONS:

TIME ALLOWED FOR CORRECTIVE ACTION:
ENFORCEMENT ACTION:
ENGINEER/FIRM: Thomas & Hutton **CONTRACTOR:**

REPRESENTATIVES PRESENT: N/A **PHOTOS TAKEN:** ☑ Yes ☐ No

OCRM PROJECT MANAGER: Shannon Hicks

EXHIBIT
number 7.9.

JASPER STATION vs. DHEC
DHEC documents - 0306

Jasper Station, SC
Intersection Hwy 141 & S27-162

Photos taken by Tom Long
7/26/07 at 11:30

D H E C

PROMOTE PROTECT PROSPER
S.C. Department of Health and Environmental Control

Office of Ocean and Coastal
Resource Management
1362 McMillan Avenue, Suite 400
Charleston, SC 29405
(843) 747-4323 Fax (843) 744-8772

Permit # 27-06-08-01 (application) EFIS ID # 30848

STORMWATER MANAGEMENT AND SEDIMENT REDUCTION
SITE INSPECTION REPORT

DATE/TIME: February 14, 2008 (Corrected)
PROJECT NAME: Jasper Station Tract Clearing
COUNTY: Jasper **WEATHER:** Clear
INSPECTED BY: Shiaique Henderson **FOLLOW-UP:** ☐ Yes ☐ No
Type of Inspection: ☐ Initiation of Construction ☐ During Construction/Compliance ☐ Reinspection ☐ Final

CHECK ONE OR MORE:

1. DOES THIS SITE HAVE NPDES COVERAGE? ☐YES ☑ NO
2. ARE THE APPROVED PLANS ONSITE? ☐YES ☑ NO
3. ARE NPDES INSPECTION AND MAINTENANCE REPORTS COMPLETE ? ☐YES ☐ NO ☑ N/A
4. INSTALLATION OF **STORMWATER DEVICES** (PONDS, SWALES, ETC.)? ☐YES ☑ NO
   A.) PROPER **INSTALLATION** OF STORMWATER MANAGEMENT DEVICES? ☐YES ☐ NO
   B.) PROPER **MAINTENANCE** OF STORMWATER MANAGEMENT DEVICES? ☐ YES ☐NO
5. INSTALLATION OF **SEDIMENT CONTROL** (SILT FENCE, CHECK DAMS, ETC.)? ☐ YES ☑ NO
   A.) PROPER **INSTALLATION** OF SEDIMENT CONTROL DEVICES? ☐ YES ☐ NO
   B.) PROPER **MAINTENANCE** OF SEDIMENT CONTROL DEVICES? ☐YES ☐ NO
6. DISTURBED AREA STABILIZED? ☐YES ☐ NO (NPDES definition of 70% vegetative cover/acre)
   IF YES, BY WHAT METHOD _____
7. OFFSITE IMPACT TO: ☑ NONE ☐WETLAND ☐ STREAM/WATERBODY/CRITICAL AREA
   ☐ ROW ☐ ADJOINING PROPERTY OWNER ☐ OTHER

COMMENTS: Currently, no land disturbing activities taking place.

VIOLATIONS CITED: None.

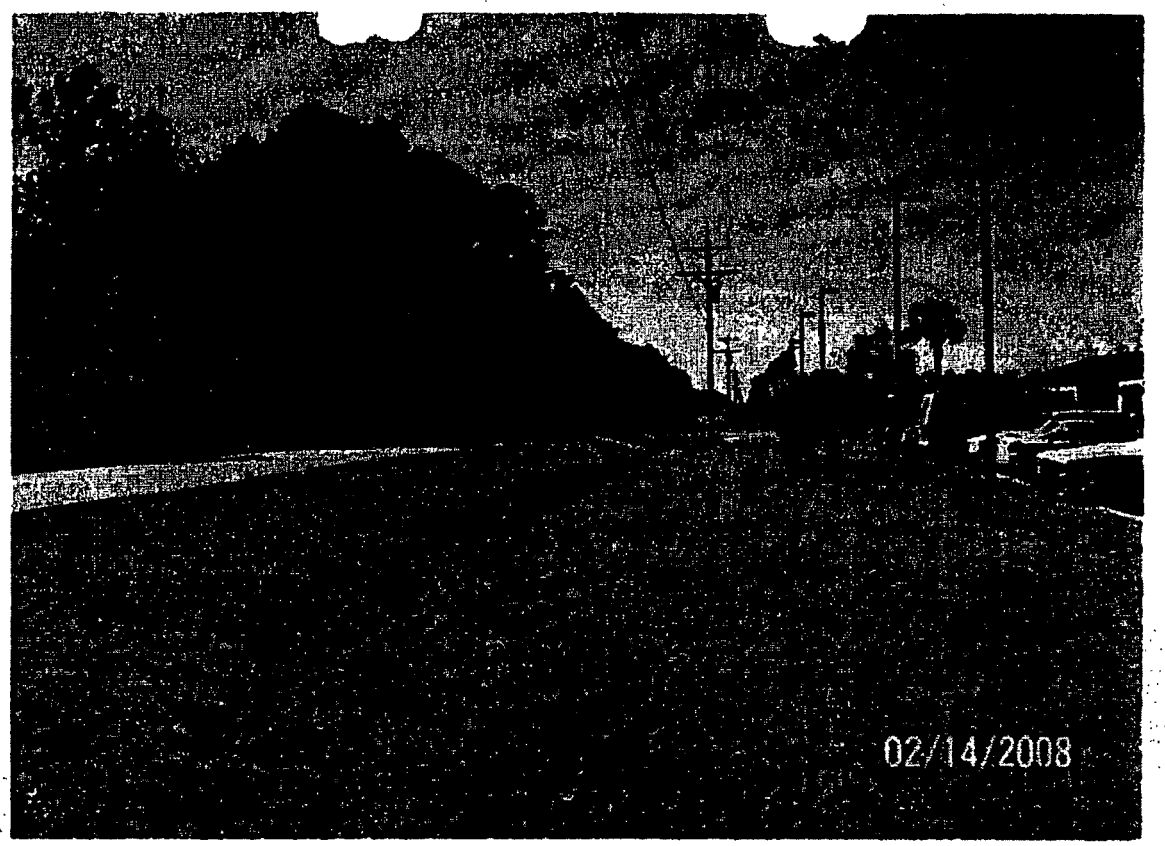
CORRECTIVE ACTIONS: None.

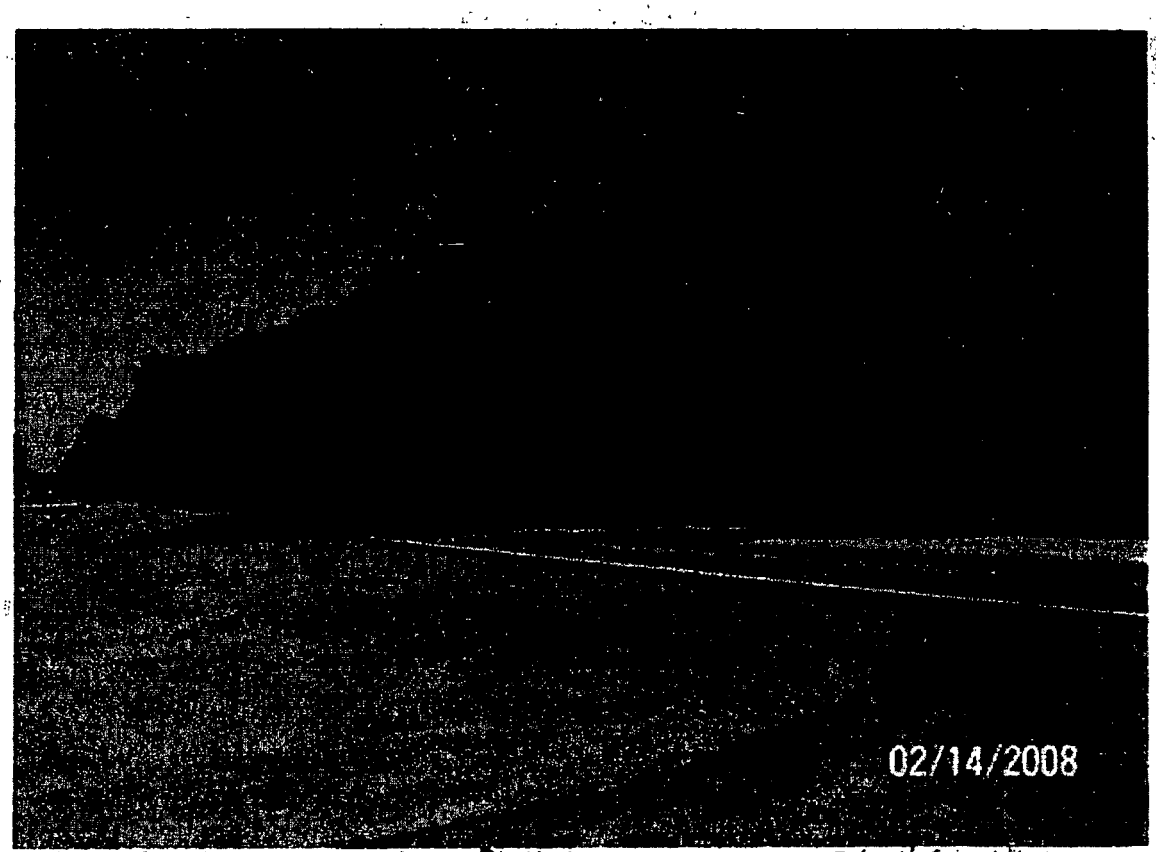
TIME ALLOWED FOR CORRECTIVE ACTION: N/A
ENFORCEMENT ACTION: N/A
ENGINEER/FIRM: Thomas & Hutton Engineering Co. **CONTRACTOR:** N/A

REPRESENTATIVES PRESENT: None. **PHOTOS TAKEN:** ☑ Yes ☐ No

OCRM PROJECT MANAGER: Blair Williams

EXHIBIT
number 7.b





JASPER STATION TRACT CLEARING PIN# 82-06-08 01 2/14/08 11:45 am
ALONG HWY 141 LOOKING EAST 000706 STANDARD HENDERSON

D H E C
PROMOTE PROTECT PROSPER

INSPECTION RATING: ___ Satisfactory
___X Unsatisfactory

NPDES STORM WATER CONSTRUCTION COMPLIANCE INSPECTION REPORT

NPDES PERMIT NO.: 27-06-08-01 **STATE TRACKING NO.:** 744962
PERMIT OWNER: DAN LYNCH **PROJECT NAME:** JASPER STATION TRACT CLEARING
DATE OF INSPECTION: 10/15/08 **COUNTY:** JASPER

PROJECT DESCRIPTION (check one): ___ Residential ___ Commercial X Other: Clearing
HAVE LAND-DISTURBING ACTIVITIES BEGUN FOR THIS PROJECT? X Yes __ No (if No, complete **Comments** section only)
TYPE OF INSPECTION: ___ Initial ___ Follow-up ___ Final X Other: Compliance Inspection

SECTION I: SITE REVIEW

SECTION RATING: ___SAT X UNSAT

1) **Are the following required items available?** (Part 3.12)
   A) SWPPP: ___Yes X No
   B) Copy of the General Permit: ___Yes X No
   C) NOI: __Yes X No
   D) DHEC Coverage Letter: __Yes X No

2) **Does the SWPPP include an updated list of co-permittee agreements or contractor certification statements?** ___ Yes X No (Part 3.2)

3) Verify which inspection schedule the permittee follows (Part 3.10). ___ A. At least once every 7 calendar days, or ___ B. At least once every 14 calendar days and within 24 hrs of the end of a storm event of 0.5 inches or greater. N/A

4) **Are inspection forms being retained with the SWPPP?** ___Yes X No (Part 3.10) ___N/A

5) **Are inspections being conducted by "qualified personnel" for 2 acres or more?** ___ Yes X No (Part 3.10) ___ N/A
Permit Coverage was denied for this site.

6) **Were any major modifications made to the SWPPP and/or site since last DHEC inspection?** X No ___ if Yes, please describe what modifications were made and did the modifications receive DHEC approval (Part 3.11): Permit coverage was denied for this site.

SECTION II: FIELD OBSERVATIONS

SECTION RATING: ___SAT X UNSAT

1) Are litter, construction debris, oils, fuels, building products & construction chemicals being properly addressed and/ or removed? X Yes __ No __ N/A: _____

2) **Are all sediment & erosion control devices** (as indicated on the plans) **installed and maintained throughout the site, such as silt fence, rock check dams, sediment traps and basins, etc.?** __ Yes __Needs improvements X No (Please indicate deficiencies and/ or improvements to be made): No plans were permitted for this site. No construction entrance installed. Some silt fencing installed.

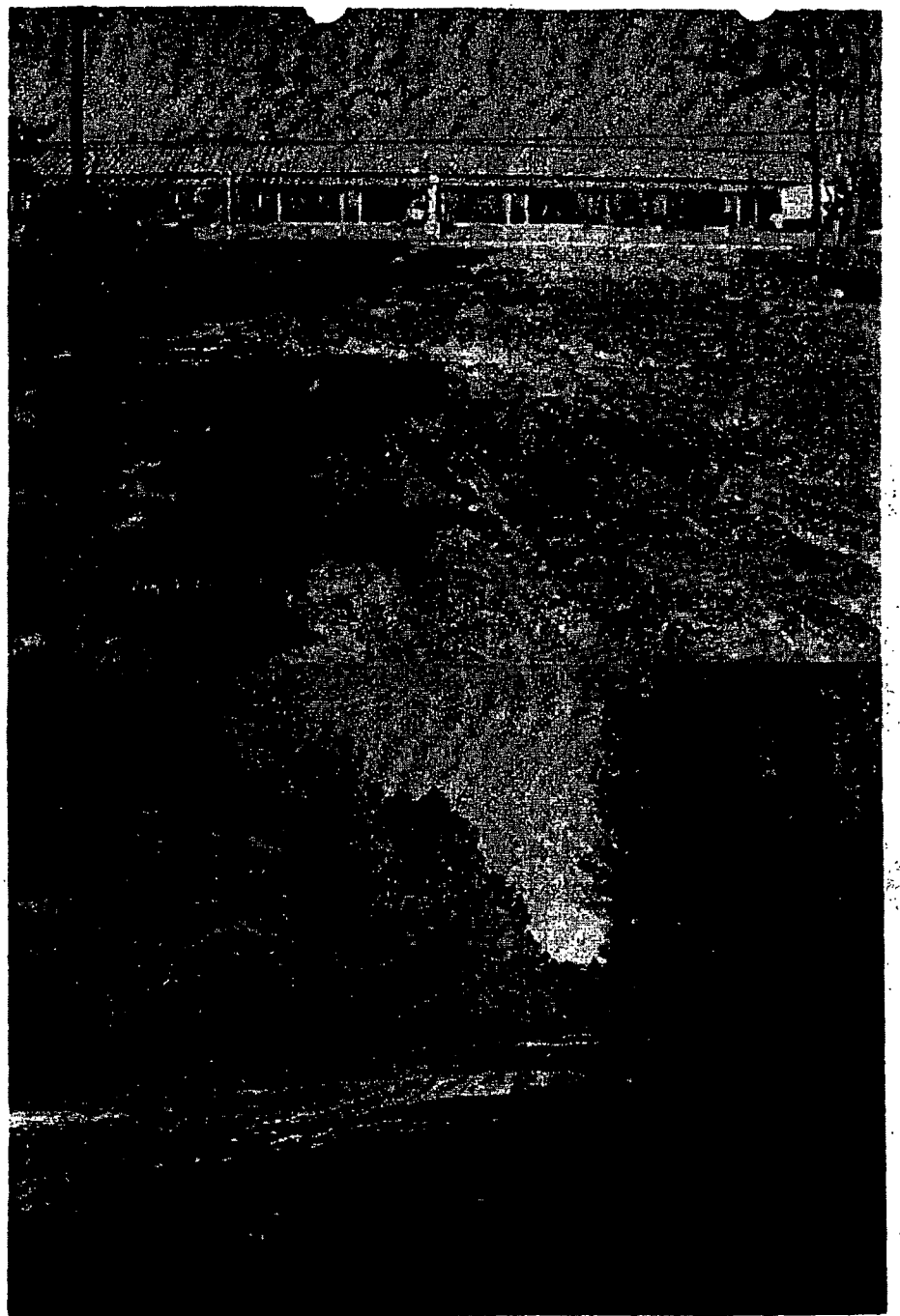
3) **Are all storm water control devices** (as indicated on the plans) **installed and maintained throughout the site, such as detention ponds, swales, outlet protection, etc.?** __ Yes___ *Needs improvements X *No (*Please indicate deficiencies and/ or improvements to be made): No plans were permitted for this site. I was unable to complete the inspection due to wet soils.

4) **Disturbed areas grassed and/ or stabilized within 14 days? (Part 3.13.D) __ Yes __ N/A X No, describe which areas need stabilization:** The area observed lack stabilization. I was unable to complete the inspection. See Section V.

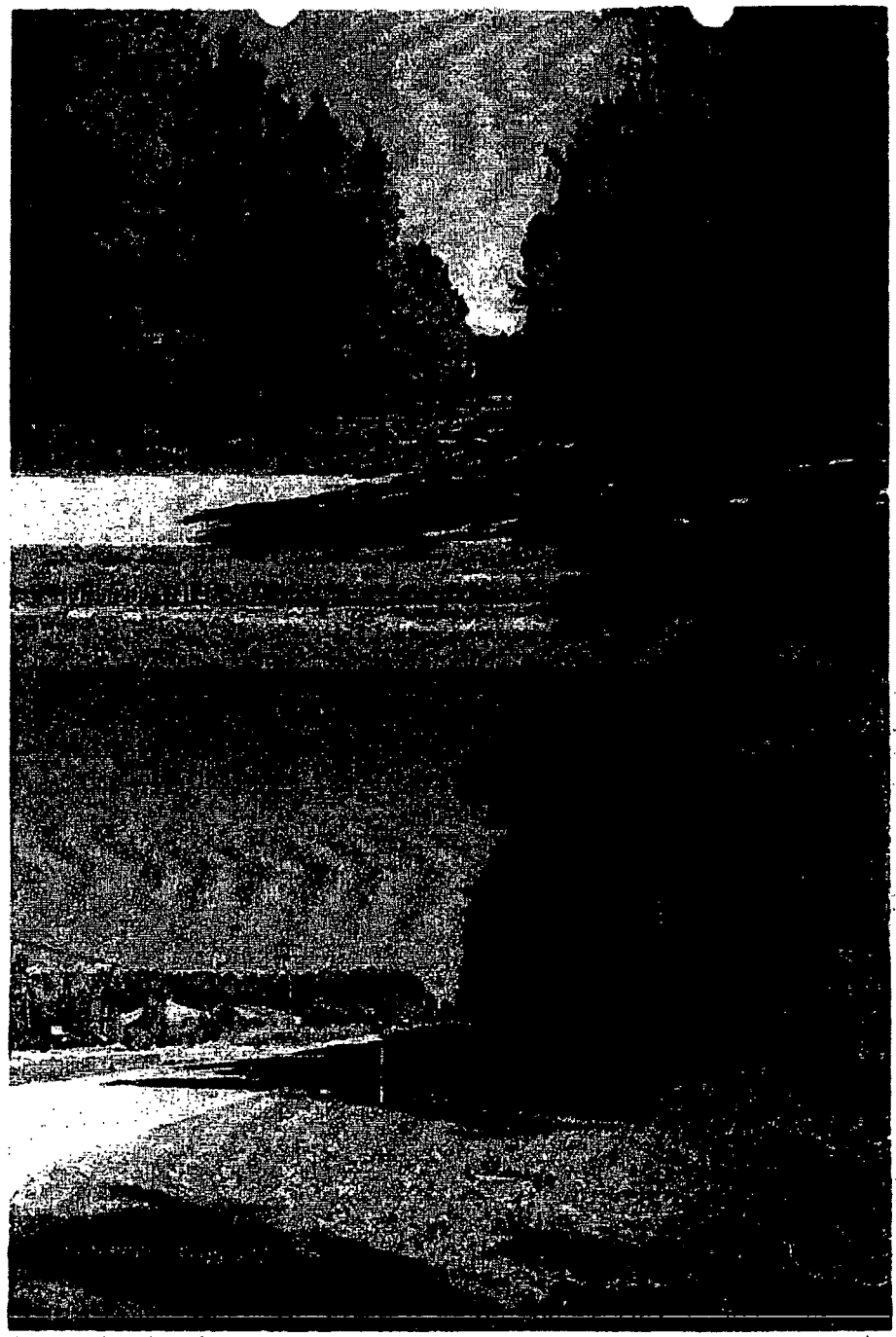
5) For areas of final stabilization, has 70% uniform coverage been achieved? ___Yes X No, identify the deficient areas: The area appeared to be recently disturbed.

EXHIBIT
7.C.

JASPER STATION vs. DHEC
DHEC documents - 0059



Jasper Station Tract **Permit # 27-06-08-01**
Shinique Henderson **10/15/08 12::06 PM**



Jasper Station Tract **Permit # 27-06-08-01**
Shinique Henderson **10/15/08 12::06 PM**

D H E C

INSPECTION RATING: ___ Satisfactory
__X Unsatisfactory

NPDES STORM WATER CONSTRUCTION COMPLIANCE INSPECTION REPORT

NPDES PERMIT NO.: 27-06-08-01 STATE TRACKING NO.: 744962
PERMIT OWNER: DAN LYNCH PROJECT NAME: JASPER STATION TRACT CLEARING
DATE OF INSPECTION: 10/23/08 COUNTY: JASPER

PROJECT DESCRIPTION (check one): ___ Residential ___ Commercial X Other: Clearing
HAVE LAND-DISTURBING ACTIVITIES BEGUN FOR THIS PROJECT? X Yes __ No (if No, complete Comments section only)
TYPE OF INSPECTION: ___ Initial ___ Follow-up ___ Final X Other: Compliance Inspection

SECTION I: SITE REVIEW

SECTION RATING: ___SAT X UNSAT

1) **Are the following required items available?** (Part 3.12)
   A) SWPPP: __Yes X No
   B) Copy of the General Permit: ___Yes X No
   C) NOI: __Yes X No
   D) DHEC Coverage Letter: ___Yes X No

2) **Does the SWPPP include an updated list of co-permittee agreements or contractor certification statements?** ___ Yes X No (Part 3.2)

3) Verify which inspection schedule the permittee follows (Part 3.10). ___ A. At least once every 7 calendar days, or ___ B. At least once every 14 calendar days and within 24 hrs of the end of a storm event of 0.5 inches or greater. N/A

4) **Are inspection forms being retained with the SWPPP?** ___Yes X No (Part 3.10) ___N/A

5) **Are inspections being conducted by "qualified personnel" for 2 acres or more?** ___ Yes X No (Part 3.10) ___ N/A
Permit Coverage was denied for this site. Land disturbance activities are unauthorized.

6) **Were any major modifications made to the SWPPP and/or site since last DHEC inspection?** X No ___ if Yes, please describe what modifications were made and did the modifications receive DHEC approval (Part 3.11): Permit coverage was denied for this site. Land disturbance activities are unauthorized.

SECTION II: FIELD OBSERVATIONS

SECTION RATING: ___SAT X UNSAT

1) Are litter, construction debris, oils, fuels, building products & construction chemicals being properly addressed and/ or removed? X Yes __ No __ N/A: _____

2) **Are all sediment & erosion control devices** (as indicated on the plans) **installed and maintained throughout the site, such as silt fence, rock check dams, sediment traps and basins, etc.?** __ Yes __ Needs improvements X No (Please indicate deficiencies and/ or improvements to be made): Permit Coverage was denied for this site. Note: Silt fence was installed around the perimeter of area disturbed. A construction entrance was not installed. In addition, clearing and grubbing impacted freshwater wetlands.

3) **Are all storm water control devices** (as indicated on the plans) **installed and maintained throughout the site, such as detention ponds, swales, outlet protection, etc.?** __ Yes X *Needs improvements X *No (*Please indicate deficiencies and/ or improvements to be made): Permit coverage was denied for this site. There were no storm water control measures in place.

4) 4) **Disturbed areas grassed and/ or stabilized within 14 days? (Part 3.13.D)** __ Yes __ N/A X No, **describe which areas need stabilization:** The entire disturbed area-lacked stabilization.

EXHIBIT
tabbies 7.d.

5) For areas of final stabilization, has 70% uniform coverage been achieved? ___Yes X No, identify the deficient areas: Final stabilization was not established.

SECTION III. OFFSITE IMPACTS FROM PROJECT SECTION RATING: X SAT ____UNSAT

1) **Were there any offsite impacts?** X No __ Yes, please specify: __ Public Right of Way __ Adjoining Property Owner __ Wetlands __ Creek/River __ Lake/Pond __ Other (please specify): _____

2) If answering "Yes" to the previous question, describe the impact (Note: Please include pictures upstream and downstream of impacts): N/A

SECTION IV: DEFICIENCIES/ CORRECTIVE ACTIONS

Corrective Action for this inspection to be completed by the following date: No plans were permitted for this site. Stabilize the entire disturbed area. Disturbance requires NPDES Construction General Permit Coverage.

SECTION V: COMMENTS

5) Please add any comments or recommendations in this section. Shelly Toms and I were unable to completely measure the entire disturbed area due to wet soils. Mrs. Toms and I were able to a measure an area of 50'(ft) x 900' (ft) =1.03 acres. Over an acre of land disturbance determined. In addition, clearing and grubbing impacted freshwater wetlands. Photographs were taken.

SECTION VI: ENFORCEMENT

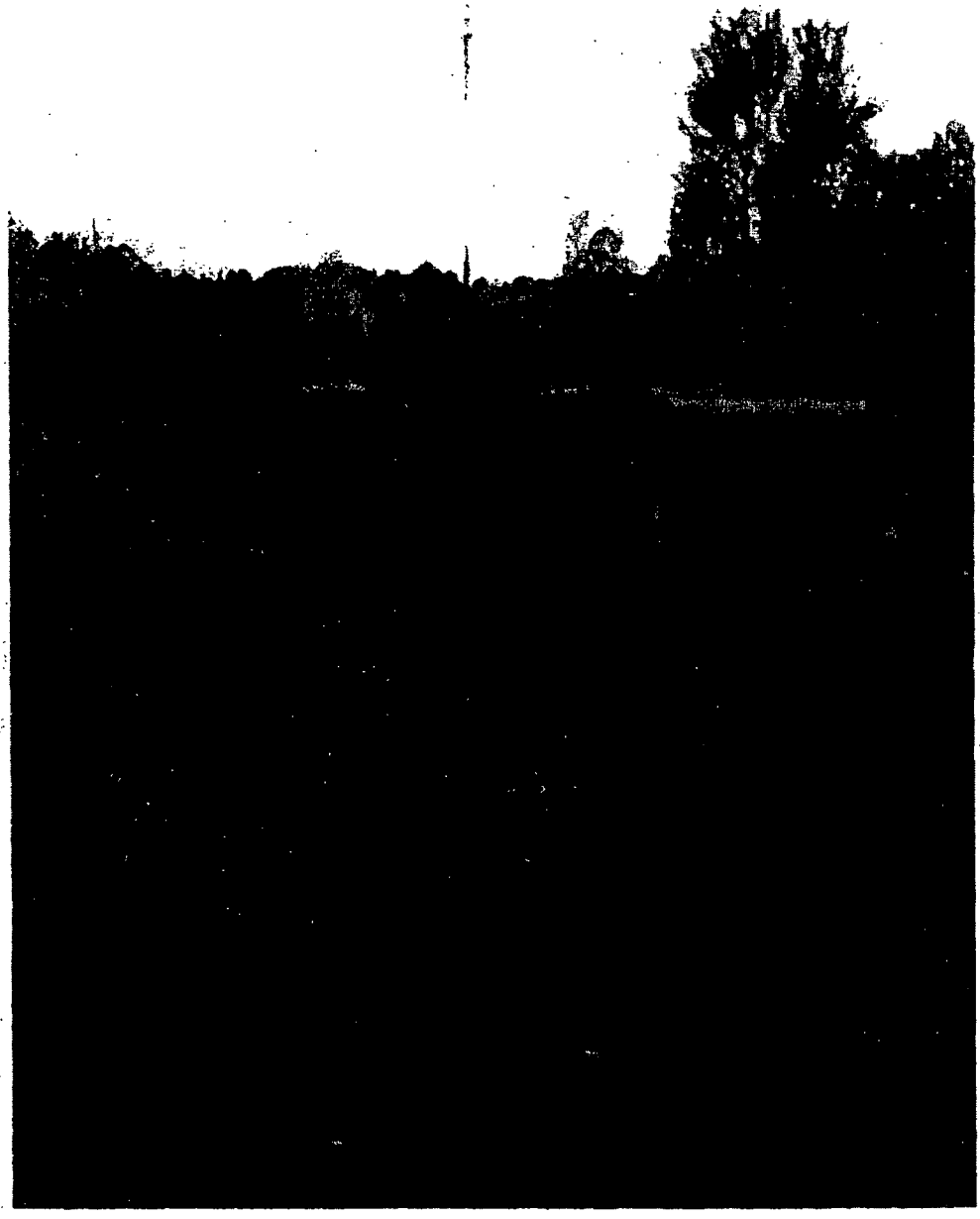
Any Enforcement Action to be taken against the Permittee? __No __ Yes explain: Enforcement Action to be determined.

Name of Representative(s) present during inspection: None

SCDHEC Inspector: Shinique Henderson **Inspector's Contact Number:** (843) 846-9400

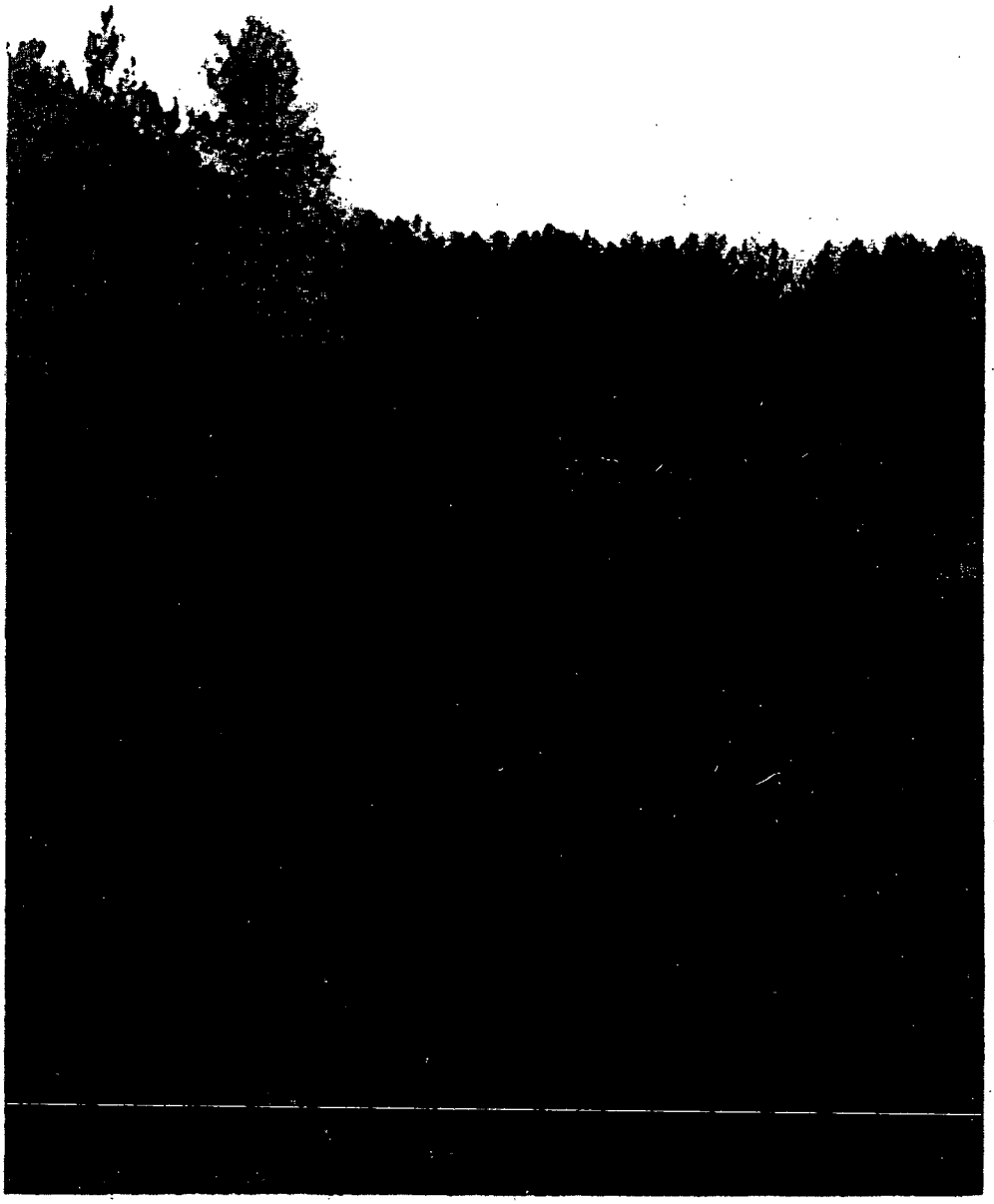
Photos taken during inspection: ___ **No** X **Yes** (include Inspector's name, date, time, location & brief description on each photo)

Updated 2/22/07



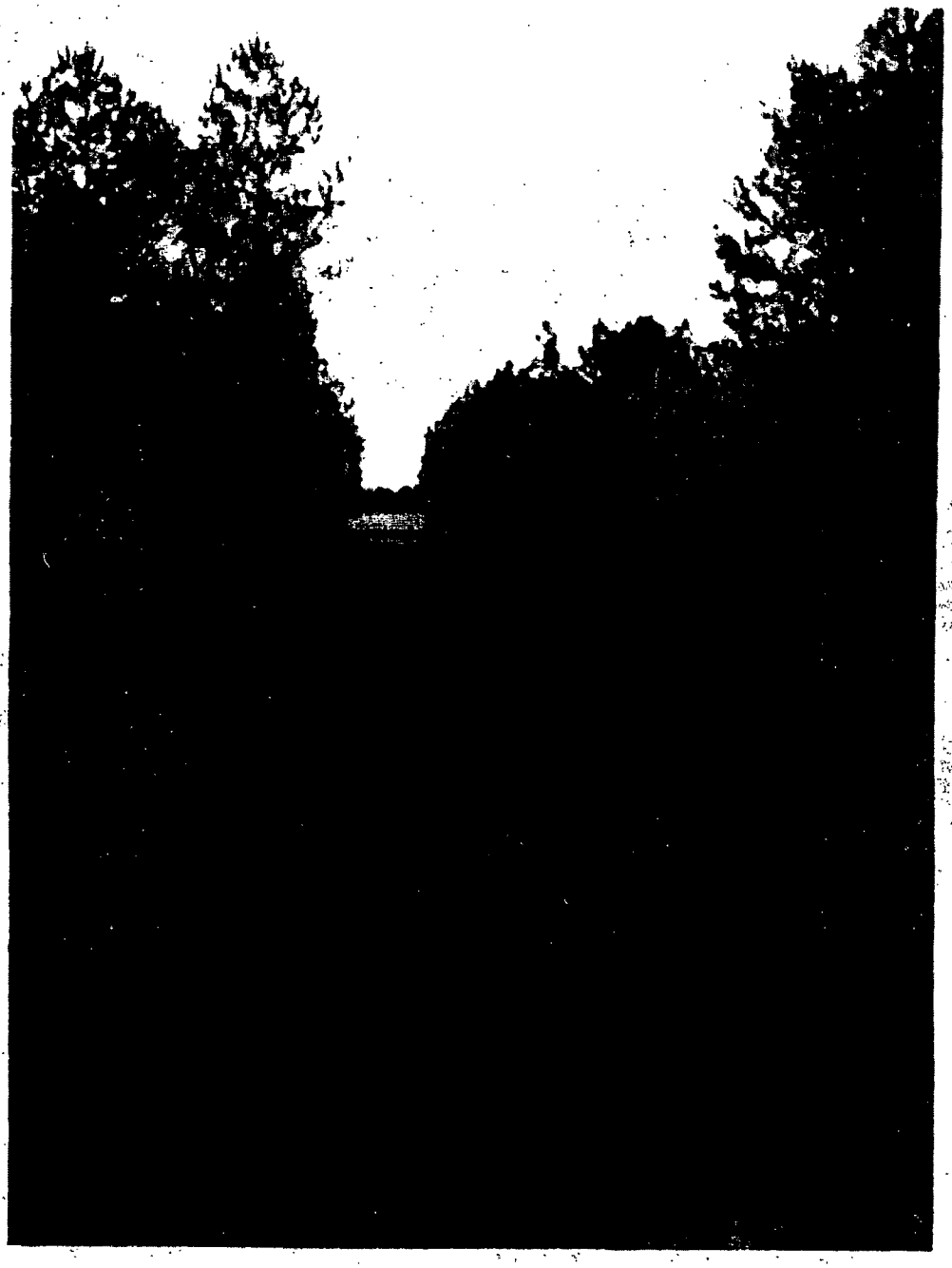
JASPER STATION TRACT
SHELLY TOMS/
SHANIQUE HENDERSON

PERMIT 27-06-08-01
10-23-08 4:30 pm



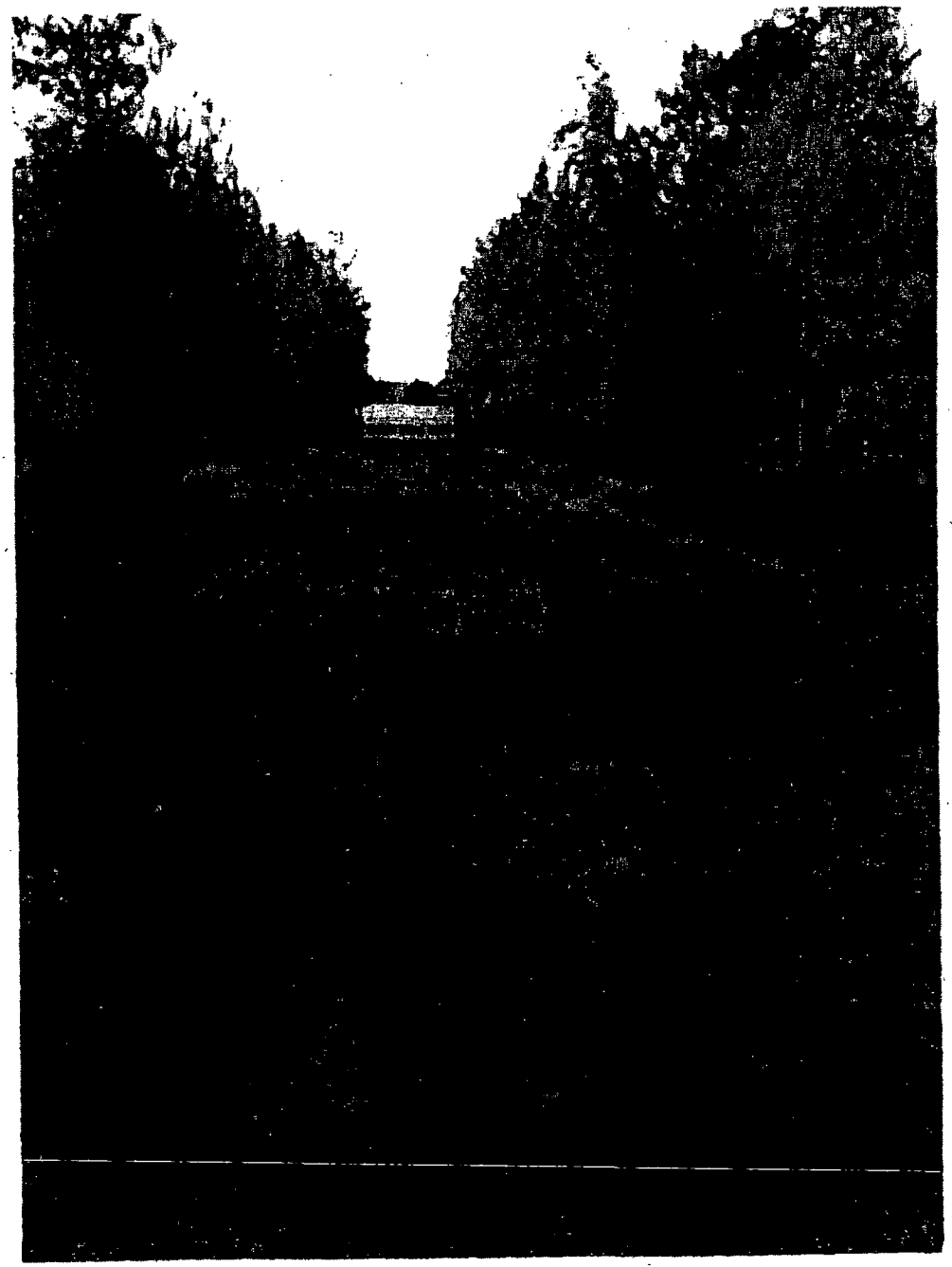
JASPER STATION TRACT
SHELLY TOMS/SHANIQUE HENDERSON

PERMIT 27-06-08-01
10-23-08 4:30 pm



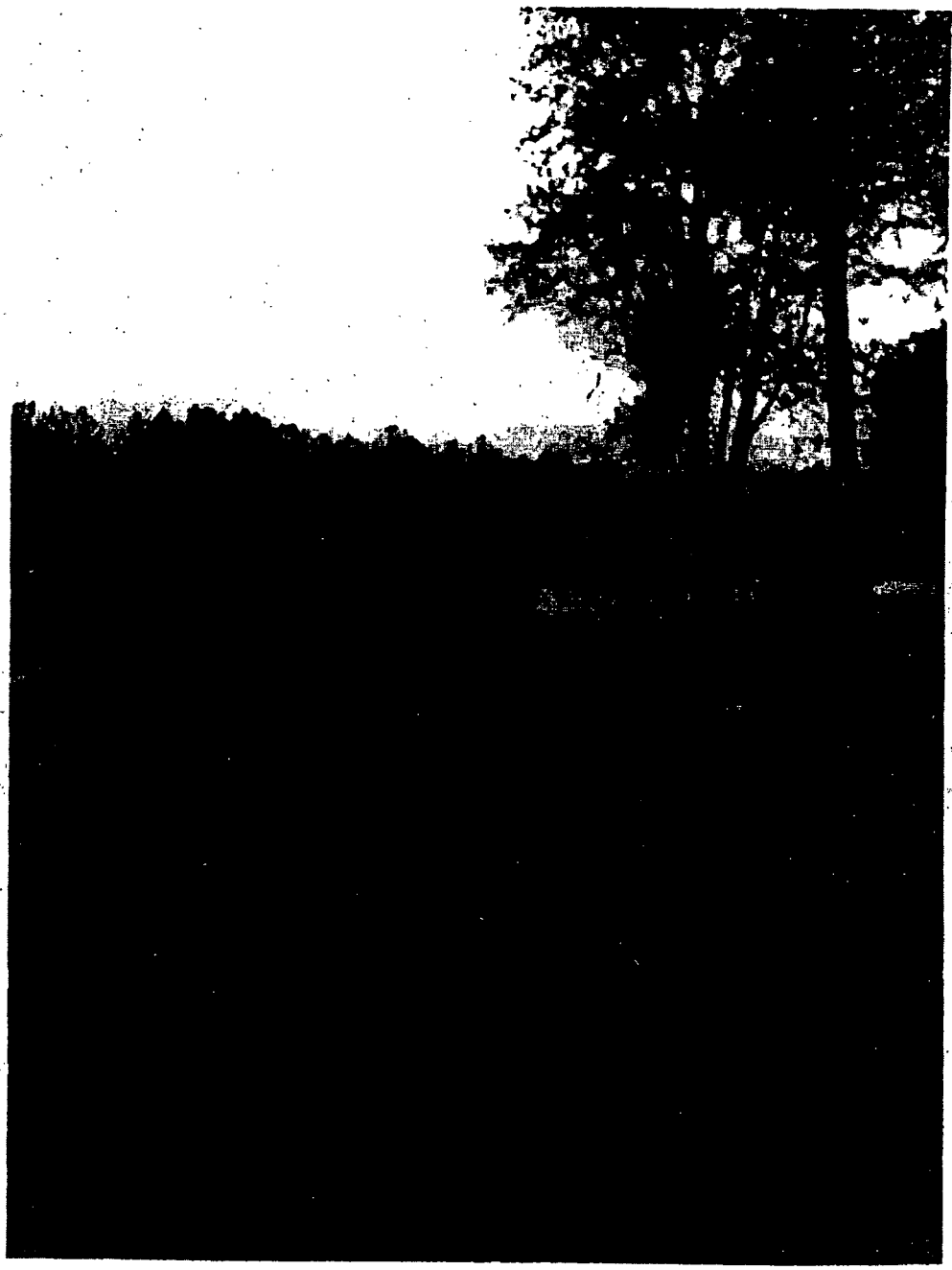
JASPER STATION - TRACT
SHELLY TOMS/SHANIQUE HENDERSON

PERMIT# 27-06-08-01
10-23-08 4:30pm



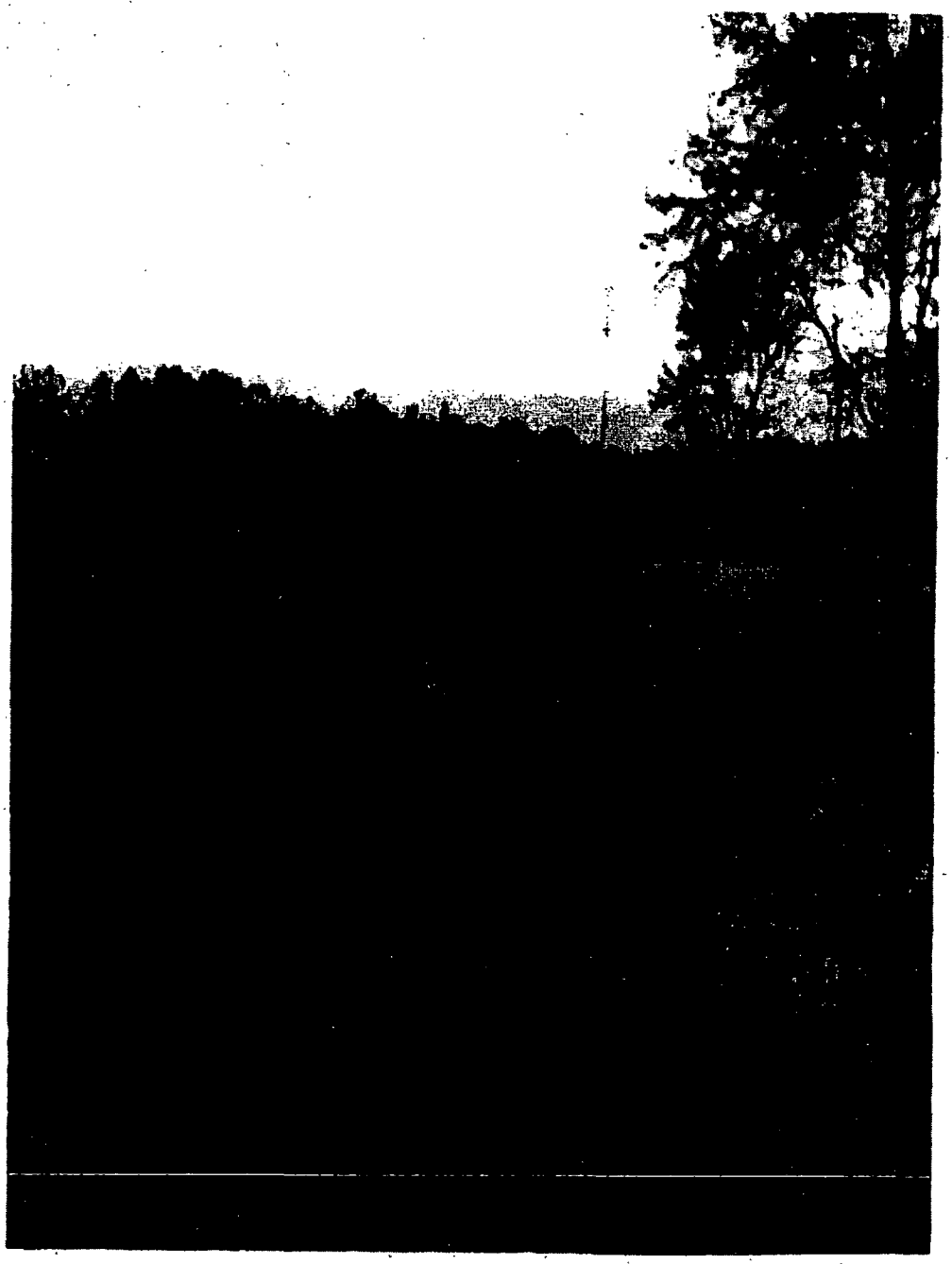
JASPER STATION TRACT
SHELLY TOMS/SHINIQUE HENDERSON

PERMIT # 27-06-08-01
10-23-08 4:30 pm



JASPER STATION TRACT
SHELLY TOMS / SHINIQUE HENDERSON

PERMIT #27-06-08-01
10-23-08 4:30 pm



JASPER STATION TRACT
SHELLY TOMS | SHINIQUE HENDERSON

PERMIT # 27-06-08-01
10-23-08 4:30 pm

D H E C

INSPECTION RATING: ___ Satisfactory
_X_ Unsatisfactory

NPDES STORM WATER CONSTRUCTION COMPLIANCE INSPECTION REPORT

NPDES PERMIT NO.: none
STATE TRACKING NO.: 27-06-08-01 (file #)
PERMIT OWNER: Jasper Station, LLC/Dan Lynch
PROJECT NAME: Jasper Station Tract Clearing
DATE OF INSPECTION: 1-6-09
COUNTY: Jasper

PROJECT DESCRIPTION (check one): ___ Residential ___ Commercial _X_ Other: site preparation/clearing
HAVE LAND-DISTURBING ACTIVITIES BEGUN FOR THIS PROJECT? X Yes __ No (if No, complete Comments section only)
TYPE OF INSPECTION: ___ Initial ___ Follow-up ___ Final _X_ Other: Compliance Inspection

SECTION I: SITE REVIEW

SECTION RATING: ___SAT _X_ UNSAT

1) **Are the following required items available?** (Part 3.12)
   A) SWPPP: ___Yes _X_ No - updated construction drawings were provided but NPDES permit coverage was denied for the site.
   B) Copy of the General Permit: ___Yes _X_ No
   C) NOI: __Yes _X_ No
   D) DHEC Coverage Letter: ___Yes _X_ No

2) **Does the SWPPP include an updated list of co-permittee agreements or contractor certification statements?** ___ Yes _X_ No (Part 3.2)

3) Verify which inspection schedule the permittee follows (Part 3.10). ___ A. At least once every 7 calendar days, or ___ B. At least once every 14 calendar days and within 24 hrs of the end of a storm event of 0.5 inches or greater. N/A – permit coverage was denied for the site.

4) **Are inspection forms being retained with the SWPPP?** ___Yes _X_ No (Part 3.10) ___ N/A
   No inspection forms were provided for the site. This information was not requested by DHEC staff during the 1/6/09 inspection.

5) **Are inspections being conducted by "qualified personnel" for 2 acres or more?** ___ Yes _X_ No (Part 3.10) ___ N/A
   Information regarding inspections was not provided during the 1/6/09 inspection and the information was not requested by DHEC staff.

6) **Were any major modifications made to the SWPPP and/or site since last DHEC inspection?** _X_ Yes __ No ___ if Yes, please describe what modifications were made and did the modifications receive DHEC approval (Part 3.11):
   Note: Permit coverage was denied for the site. Land disturbance activities are unauthorized. The updated construction drawings provided on site 1/6/09 (plans dated 7/16/08 by engineer) divide the approx. 89 acre parcel into two phases. The updated drawings provided are for phase 1 only and phase 1 includes 48.8 acres. Currently it is estimated that 18 acres have been cleared to date based upon information provided by the owner and its consultant. The decrease in acreage is not a major modification. The updated drawings include a berm at the west end of the over 30 acre wetland system directly adjacent to the property line. It is presumed that the berm is being added to control flow from the site on to the adjacent property as a weir is proposed in the berm. The top of berm is at elevation 17.0 and the proposed weir invert is at 15.45'. The wetland appears to flow from the Jasper Station Tract to the adjacent parcel. Changes in drainage are a major modification.

SECTION II: FIELD OBSERVATIONS

SECTION RATING: ___SAT _X_ UNSAT

1) Are litter, construction debris, oils, fuels, building products & construction chemicals being properly addressed and/ or removed? _X_ Yes __ No __ N/A:

EXHIBIT
7.e
000718

Any Enforcement Action to be taken against the Permittee? ____ Yes, explain: Enforcement action to be determined.

Name of Representative(s) present during inspection: Dan Lynch – Jasper Station, Ryan Smith – Thomas and Hutton, Gabe Smith – Thomas and Hutton, Andrew – Malphrus Construction

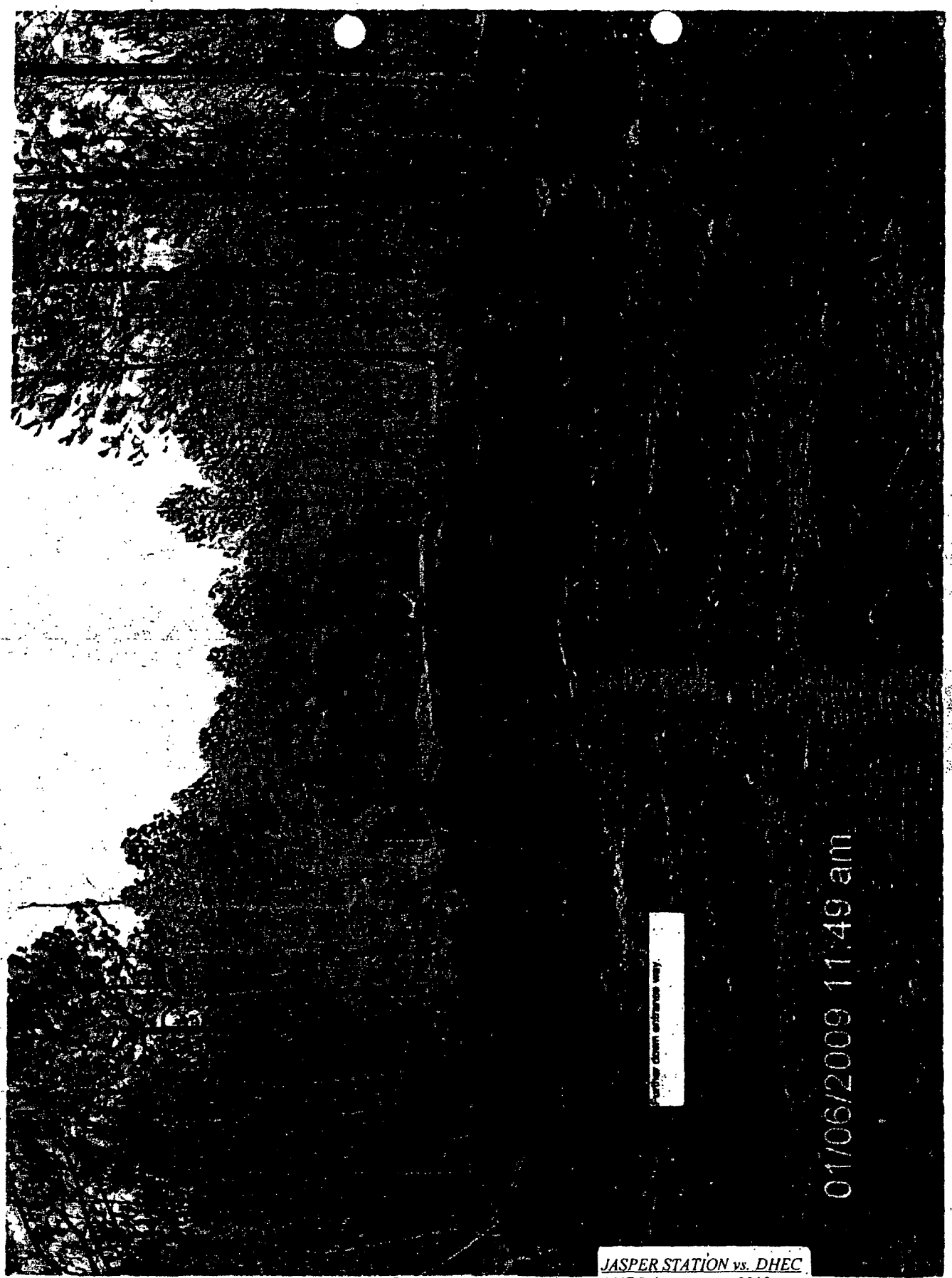
SCDHEC Inspector: Shannon Hicks, Shinique Henderson, Tara Maddock **Inspector's Contact Number:** 953-0240

Photos taken during inspection: ___ No __X__ Yes (include Inspector's name, date, time, location & brief description on each photo)

Updated 2/22/07

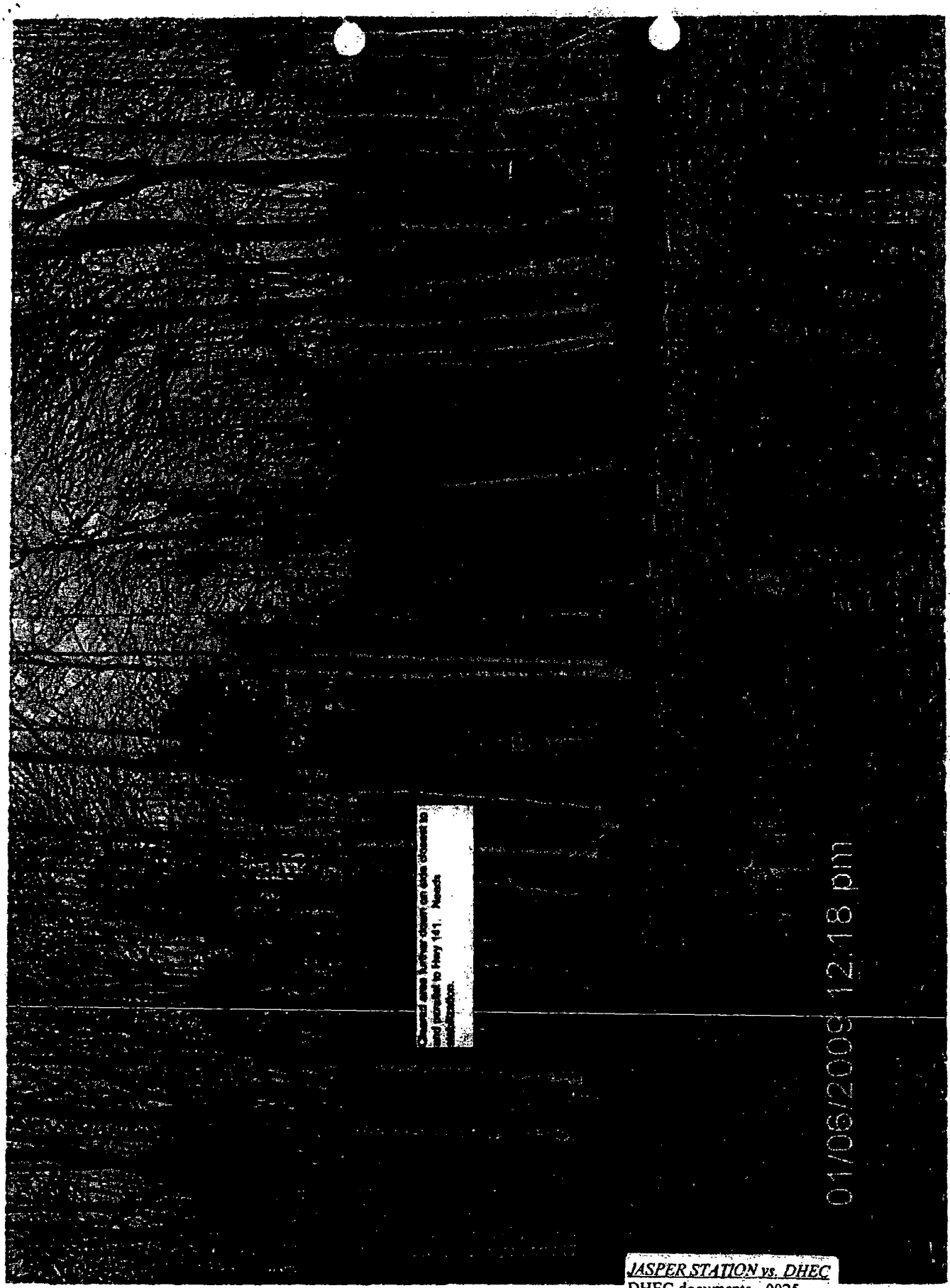
JASPER STATION vs. DHEC
DHEC documents - 0015

01/06/2009 11:49 am


01/06/2009 11:49 am

JASPER STATION vs. DHEC
DHEC documents - 0021

JASPER STATION vs. DHEC
DHEC documents - 0023


01/06/2009 12:18 pm

JASPER STATION vs. DHEC
DHEC documents - 0027

D H E C

PROMOTE PROTECT PROSPER

C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment

Memo to: Barbara Neale, Shannon Hicks, Heather Kellerman, Blair Williams

From: Jeff Thompson

Subject: Jasper Station Tract Clearing Field Inspection, July 28, 2009

Kathleen Lamaker and I visited this project site on Tuesday, July 28, 2009. The purpose of our investigation was to determine if:

1. Areas previously identified as wetland by the USACOE and subsequently changed to "no wetland" by the USACOE were in fact wetland?
2. Were any wetland areas filled during the clearing process in the 19+- acres?

We walked into the site using the cleared roadway from S-27-141. Along this roadway, wetland was identified at the location marked "Soil Profile 1" on a plat of the property noted as **Sheet 5, Jasper Station Associates, LLC, Erosion & Sedimentation Control Plan, dated 7/7/06**. This area exhibited a predominance of hydrophytic vegetation, primary indicators of hydrology, and hydric soils, as indicated in the attached notes, meaning this area meets the three parameter approach to identifying wetlands. This area corresponds closely to the wetland line depicted on the plat. The roadway does appear to have one foot or less of fill in the wetland.

We then proceeded to the main cleared area of the site. The area east to north east of where the road enters the site has not been cleared and no sign of any work being performed in this area was noted. The area to the south of the entrance road has been cleared and grubbed with the exception of a few small areas. Silt fencing had been installed along the edge of the cleared area but sections were not properly installed as the fence had not been properly secured at the bottom and silt could run underneath the fencing.

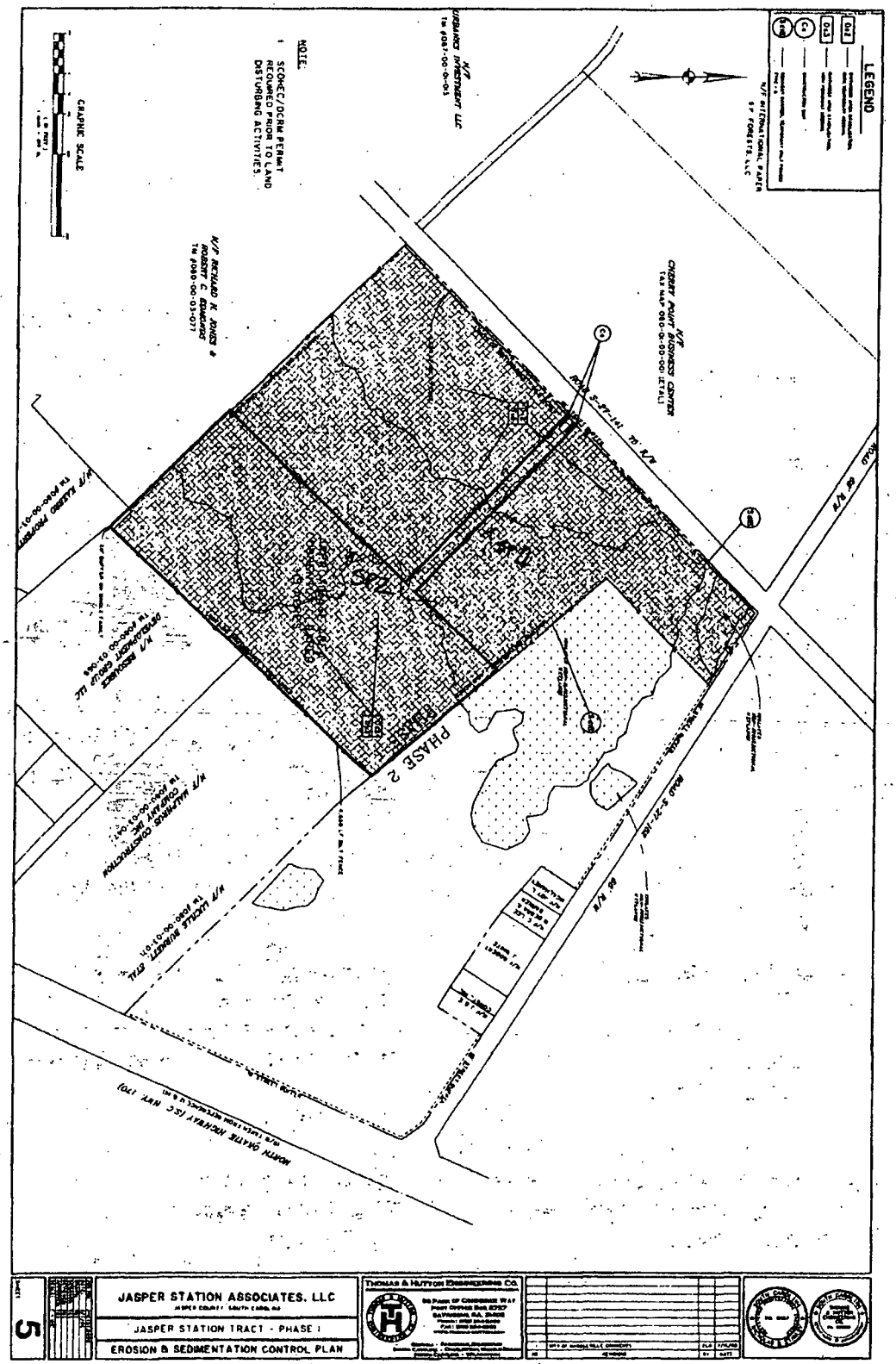
A second site noted on the plat as Soil Profile 2 was examined. This site also met the three parameter approach for wetland identification in that the area exhibited a predominance of hydrophytic vegetation, indicators of hydrology, and the presence of hydric soils.

In my opinion, the wetland boundaries depicted on the plat represent closely the wetlands found on this project site. No evidence to suggest the project site no longer contained wetland was noted during the site visit. I will provide a copy of field notes prepared by Kathleen under my direction, color photos of the cleared areas and undisturbed areas immediately adjacent to the cleared area, and a copy of the plat showing the approximate location of the soil profiles described in the notes. Please let me know if you need any additional information at this time.

Jeff Thompson

EXHIBIT
tabbies 7.f.

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
Ocean and Coastal Resource Management
Charleston Office • 1362 McMillan Avenue • Suite 400 • Charleston, SC 29405 • Phone: (843) 953-0200 • Fax: (843) 953-0201 • www.scdhec.gov



JASPER STATION vs. DHEC
DHEC documents - 0199

Jasper Station 7/28/09

Soil Types at the site per soil survey:

- Bladen
- Cape Fear Loam
- Wahee

Site #1

Vegetation:
Blackgum, Nyssa biflora
Wax Myrtle, Myrica cerifera
Sweetgum, Liquidambar styraciflua
Holly Shrub- Ilex glabra
Greenbrier- Smilax laurifolia
Blueberry- Vaccinium corymbosum
Red maple- Acer rubrum
Sweet bay magnolia- Magnolia virginiana

Other indicators:
Buttressed tree trunks
Water lines on tree trunks
Water stained leaves

Soil Profile:
A Horizon

- 0" to approximately 10"
- 10 YR 3/1

B Horizon

- 10" to approximately 20"
- 10 YR 4/1 to 4/2

B Horizon #2

- Approximately 20"
- Matrix 10 YR 3/1
- Small mottles 10 YR 6/8

Other vegetation in cleared area (regrowth):
Rhynchospora, Pontedaria cordata, Eleocharis, Cyperus, Carex, Sagittaria lancifolia, Clethera allnifolia, Juncus effusus.

Site #2
Approximately 30' from silt fencing (in area that has been cleared but not filled)

Vegetation:
Rhynchospora sp.
Cyperus sp.
Sagittaria sp.
Ludwigia sp.
Carex sp.

Soil Profile:

A Horizon

- 0" to approximately 16"
- 10 YR 2/1 (very black/dark/organic smell)

B Horizon

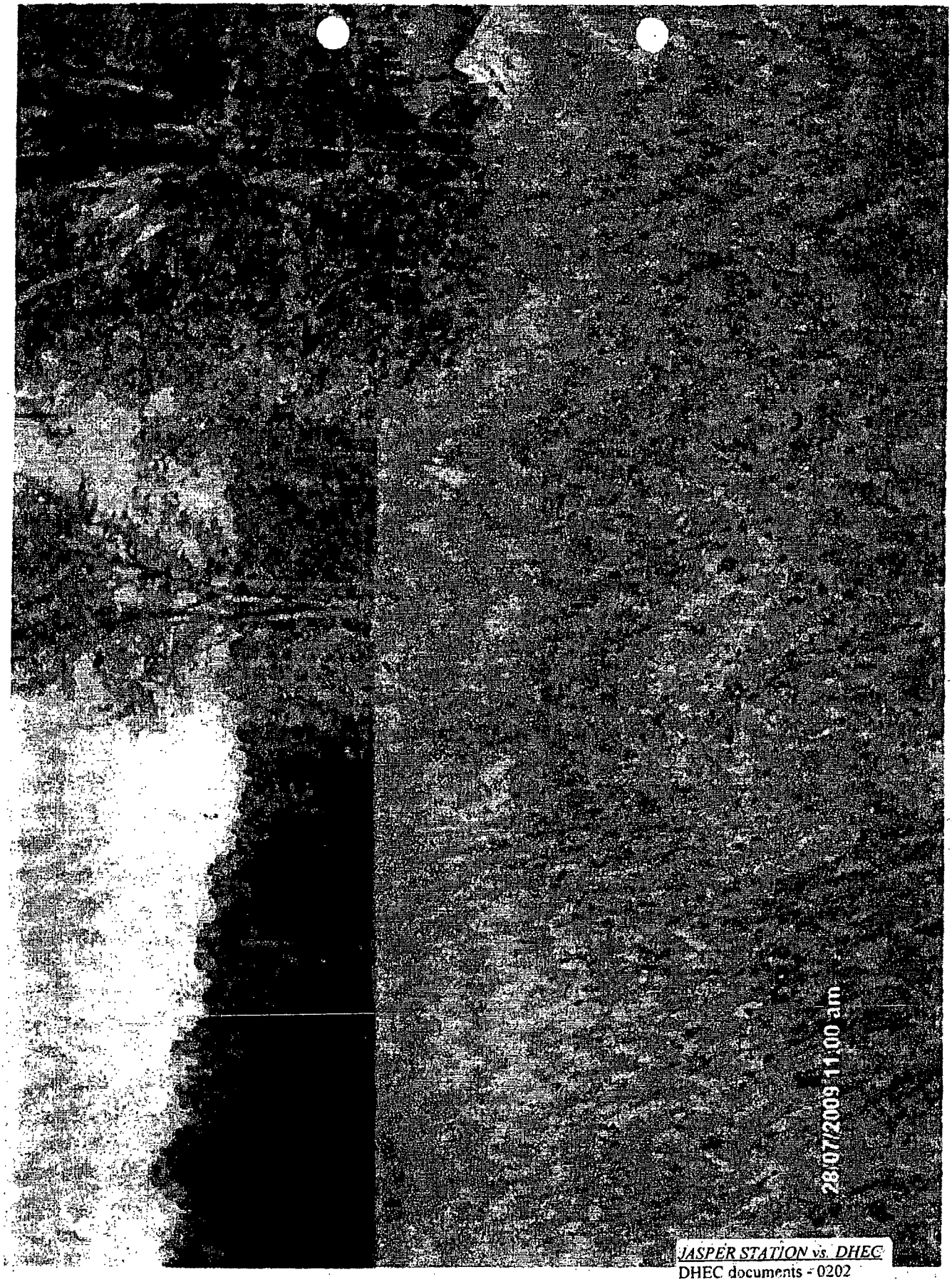
- 10 YR 4/1

Vegetation/indicators on outside of silt fence:
Sweetgum, Liquidambar styraciflua
Blackgum, Nyssa biflora
Sweet bay magnolia, Magnolia virginiana
Blueberry, Vaccinium
Fetterbush, Lyonia lucida
Virginia chain fern, Woodwardia virginiana

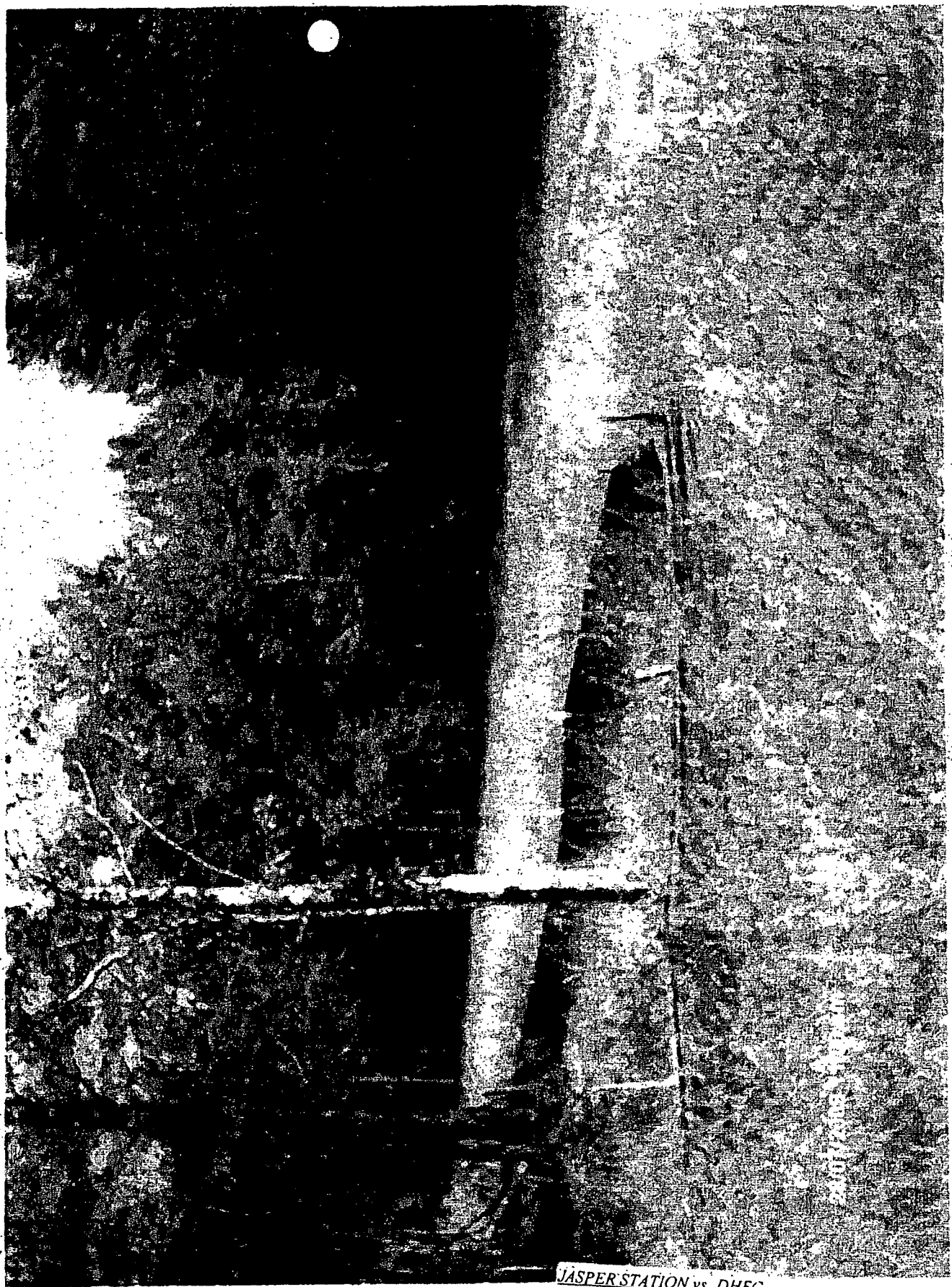
Hydologic Indicators:

Buttressed tree trunks
Water lines on tree trunks
Standing water





JASPER STATION vs. DHEC
DHEC documents - 0202



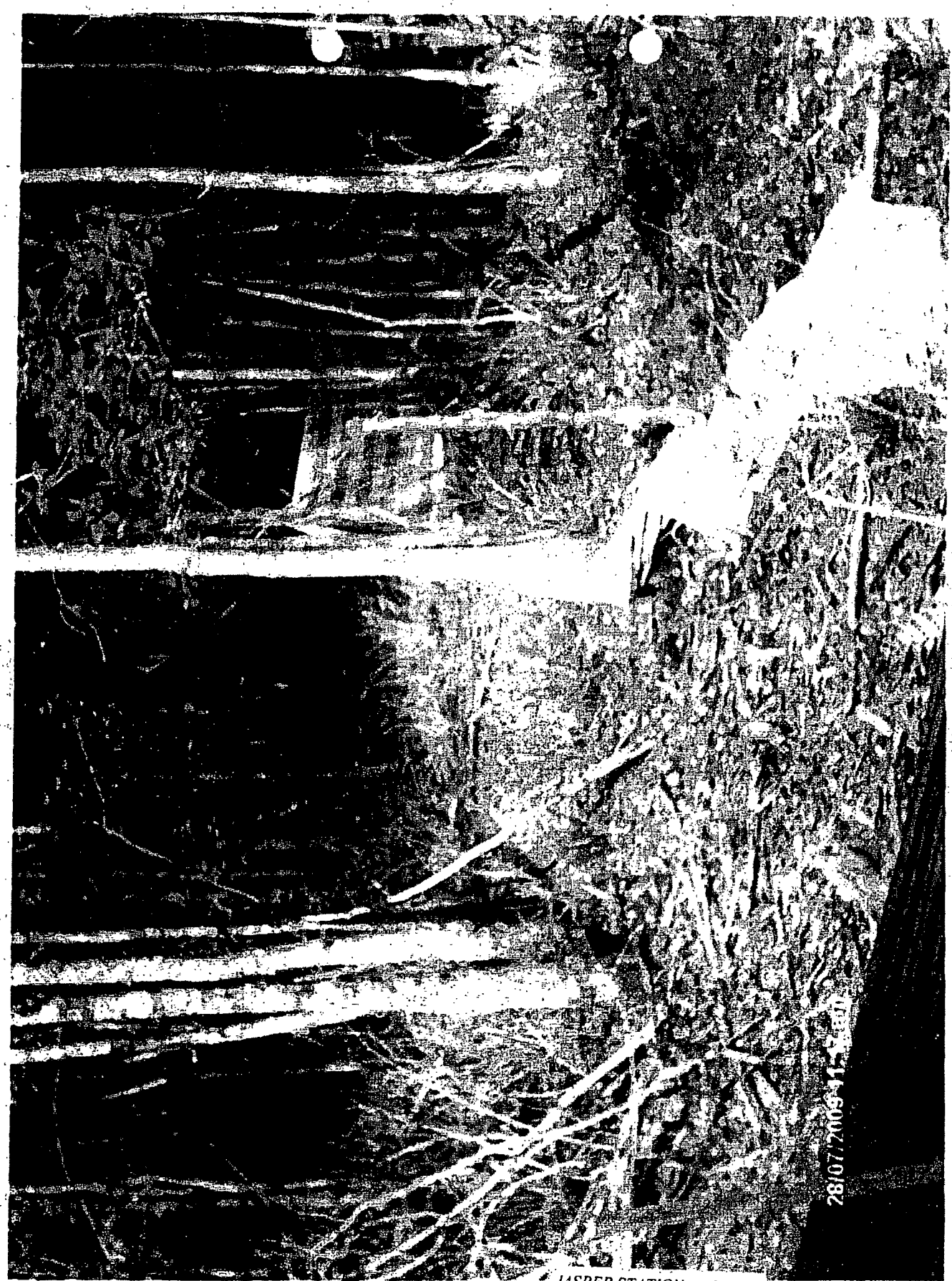


JASPER STATION vs. DHEC
DHEC documents - 0204


28/07/2009 11:10 am



JASPER STATION vs. DHEC
DHEC documents - 0206





JASPER STATION vs. DHEC
DHEC documents - 0208

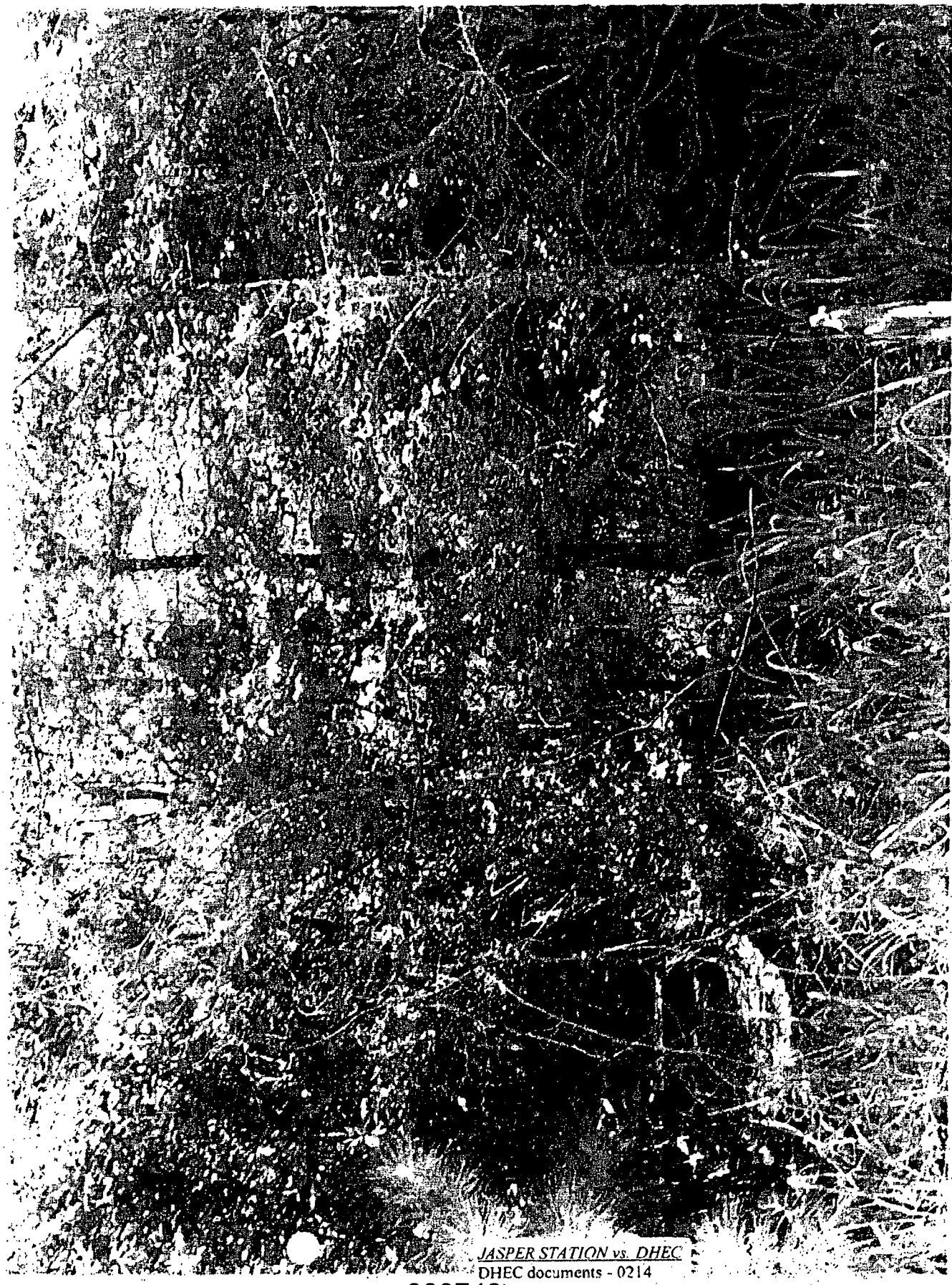

22/07/2009 11:22 am


28/01/2002 11:23 am













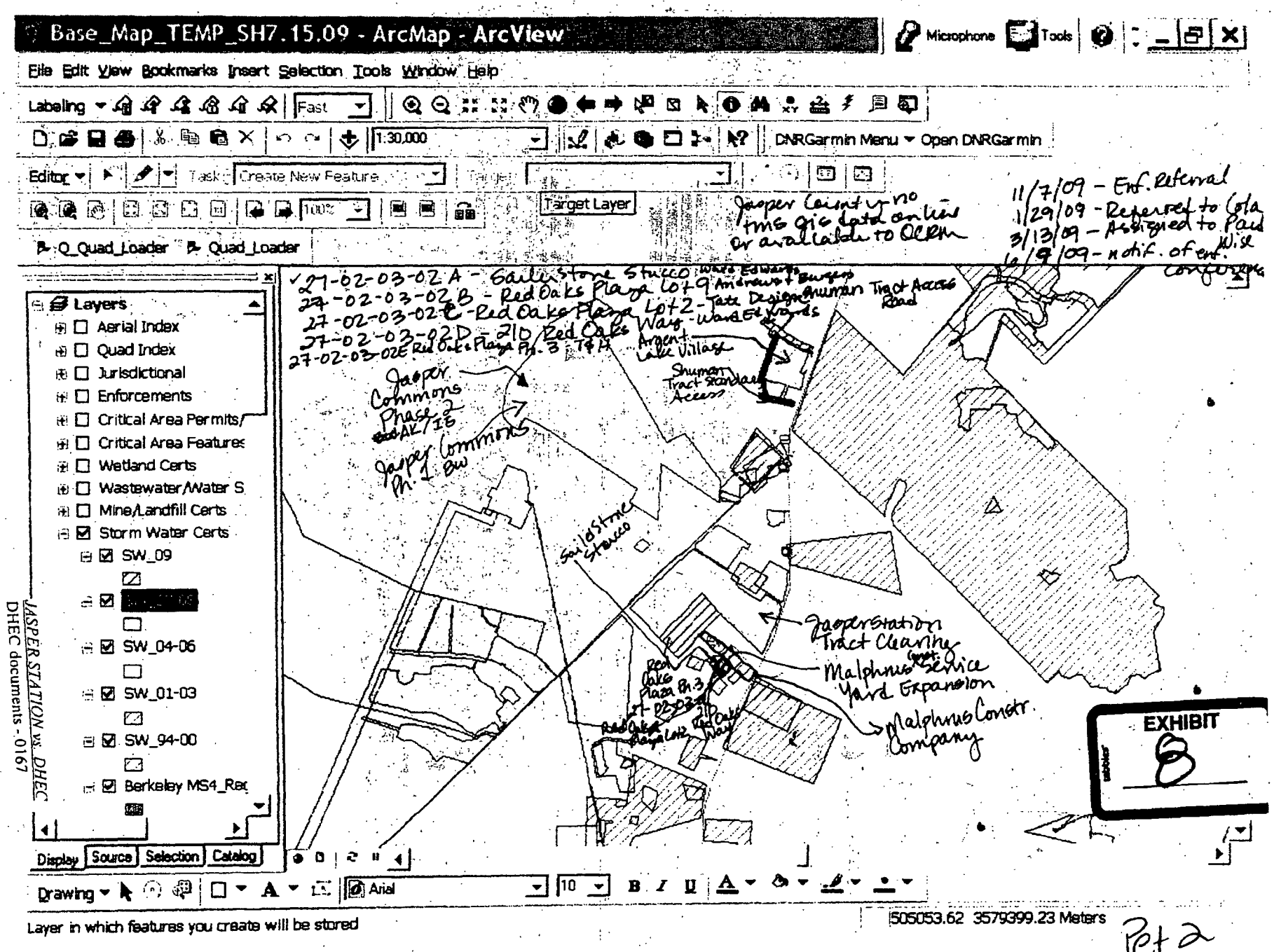






JASPER STATION vs. DHEC
DHEC documents - 0219





JASPER STATION vs. DHEC
DHEC documents - 0167

000750

Pet 2

From: Shannon Hicks
To: Smith, Gabe
CC: Henderson, Shinique L.; Lynch', 'Dan
Date: 1/6/2009 5:21 PM
Subject: Re: Jasper Station Drawing

Thanks for the e-mail Gabe. It doesn't appear that the roadway portion cleared from SR 141 is included on the plat. Will you please include that area as well? Also, please send a hard copy of the plat to scale in the mail.

Shannon

>>> "Smith, Gabe" <smith.g@thomas-hutton.com> 1/6/2009 4:47 PM >>>
Shannon:

The plan sheet with the area cleared is attached. The parcel in red is the 18-acre piece Malphrus cleared.

Thomas Gabe Smith, P.E.

Thomas & Hutton Engineering Co.

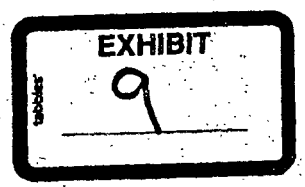
"Relationships and Solutions for Success"

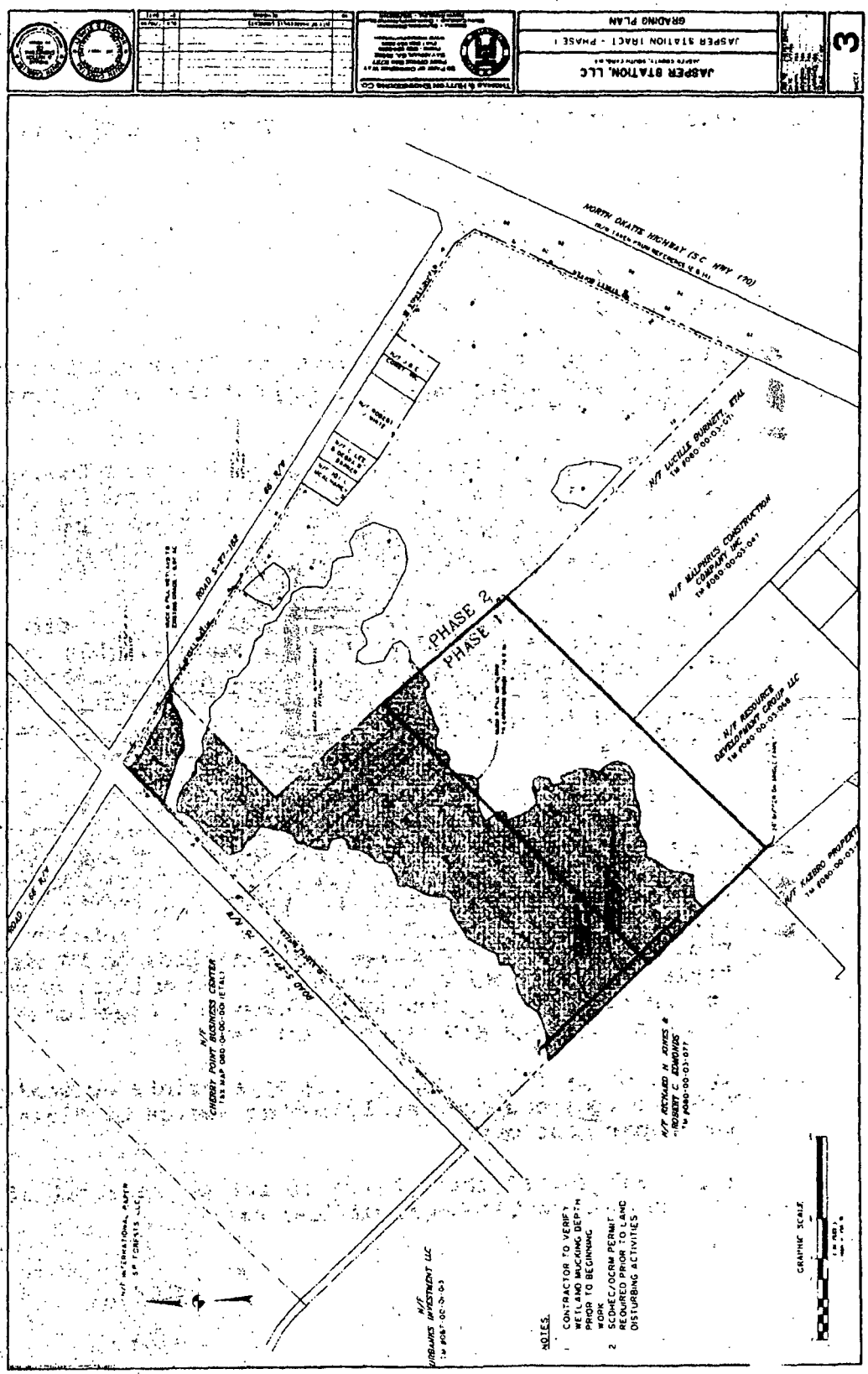
www.thomas-hutton.com<http://www.thomas-hutton.com>

smith.g@thomas-hutton.com<mailto:smith.g@thomas-hutton.com>

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JASPER STATION vs. DHEC
DHEC documents - 0031

Policy Approved by DHEC
Board September 9, 1999

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

UNIFORM ENFORCEMENT POLICY
FOR THE
OFFICE OF ENVIRONMENTAL QUALITY CONTROL

I. GENERAL PURPOSE

1. This policy shall govern enforcement procedures for the environmental programs within the Office of Environmental Quality Control.

2. This policy is intended to provide uniform procedures for the conduct of enforcement actions and to provide uniform criteria for the assessment of civil penalties.

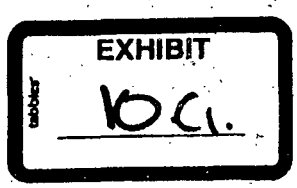
II. CIVIL ENFORCEMENT PROCEDURES

1. When, based upon available information, it is determined that there is a violation of any applicable statute, regulation, standard, or permit, and the violation can be adequately documented, a Notice of Violation will be forwarded by certified mail to the responsible party ("party").

2. The Notice of Violation will specify the alleged violation(s) and require that the party respond within a specified period of time as to the measure(s) he has taken or will take to address the same. If the Department determines that a response to the Notice of Violation is nonessential and that a conference to discuss the violation(s) is desirable, a consolidated Notice of Violation and Notice of Enforcement Conference may be transmitted; the Notice of Enforcement Conference will be in accordance with item 4 (a) below.

3. If the party fails to take the appropriate action(s) or fails to respond adequately to the Notice of Violation, the Department may:

   (a) Seek relief through the courts by referral of the matter to the Legal Office; or,



(b) Pursue the matter administratively.

4. If the matter is pursued administratively, the following procedures will be followed:

(a) A Notice of Enforcement Conference will be forwarded by certified mail to the party. This Notice will require that the party attend a conference on a specified date, time, and location to "demonstrate" why the Department should not pursue further enforcement action.

(b) If a determination is made as a result of the conference that a Consent Order can be mutually agreed to, the Department may issue such order.

(c) If agreement on a Consent Order cannot be reached, the Department may issue an order, without the party's consent, requiring compliance with the statute, regulation, standard , or permit allegedly violated. An Administrative Order will be forwarded to the party by certified mail or personal delivery. The order will give the party at least fifteen (15) days to contest its provisions in accordance with Department Regulation 61-72. Should no hearing be requested, the order will become effective as issued at the end of the fifteen (15) days.

(d) If a party fails to attend a scheduled Enforcement Conference, the Department may issue an Administrative Order without the party's consent. The party will have fifteen (15) days to contest the requirements of the order in accordance with Regulation 61-72.

(e) All orders shall be forwarded to the Commissioner through the Legal Office.

(f) If a party appeals an Administrative Order within the fifteen (15) day period, the receipt and processing of appeals shall be in accordance with the Uniform Procedure for Processing Notices of Appeal, dated May 29, 1991. Reports of Hearing Officers shall be in accordance with the Hearing Officer Procedures, dated May 7, 1991.

5. Upon a determination that conditions or provisions of a

previous order have not been met, the Department will forward a Notice of Violation, ascertain the reasons for noncompliance, and initiate one or more of the following actions:

(a) Amend the original order to include a revised schedule of compliance, necessary modifications, and assessment of civil penalties; such orders may be issued and contested as in 4 (c) above;

(b) Issue a new order to include a revised schedule, necessary modifications, and assessment of civil penalties; such orders may be issued and contested as in 4 (c), above; or

(c) Refer the matter to the Legal Office for action as deemed appropriate.

III. A. CIVIL PENALTY ASSESSMENT GUIDELINES

1. The following guidelines are provided for the administrative assessment of civil penalties that are provided by law for the violation of any statute, regulation, standard, permit, or order.

2. The guidelines are provided for the following general purposes: to provide uniform and objective criteria against which penalties are assessed for violations; to enhance and achieve compliance; to punish and deter future violations; to ensure that penalties are appropriate for the gravity of the violation committed; to eliminate economic incentives for noncompliance; and to promote fairness and consistency in the assessment of penalties for similar violations.

3. Any one or combination of factors shall be considered in the assessment of civil penalties:

(a) Degree of harm or potential for harm to the public health, safety or environment;

(b) Extent of deviation from the requirements of the statute, regulation, standard or permit;

(c) Frequency or duration of the violation. This may include multiple or multi-day violations;

(d) Economic benefit as a result of noncompliance.

This may include any evidence of economic advantage gained through noncompliance. In calculating economic benefit, enforcement staff may utilize the EPA computer model as appropriate;

(e) Cost of restoration of the environment or abatement of the environmental harm;

(f) Past performance record or past history of violations;

(g) Degree of willfulness and/or negligence;

(h) Other pertinent factors that measure the seriousness or frequency of the violation, or the conduct of the party.

4. Circumstances may warrant the downward adjustment of a civil penalty. It will be the responsibility of the party to present documentation of mitigating circumstances that may be considered by staff in setting the amount of the civil penalty. Any one or combination of the following factors may be considered in making a downward adjustment in the amount of a civil penalty:

(a) The degree of cooperation by the party in remedying the violation or resolving the problem;

(b) Any measures taken to avoid repetition of the violation. However, no downward adjustment shall be made for measures taken for the sole purpose of coming into regulatory compliance.

(c) Good faith efforts to comply with requirements. However, no downward adjustment shall be made for good faith efforts consisting solely of coming into regulatory compliance.

(d) Ability to pay. The party must present complete financial information as requested by enforcement staff to make this determination. In making this determination, enforcement staff may use the EPA computer model as appropriate;

(e) Other pertinent factors.

B. Penalty Calculation Guide for Repeat Violations

The following guidelines are being provided for those instances where the Department has determined that the violations are considered repeat violations. "Repeat violations," for the purposes of this guidance, are those violations that are similar or are related to violations that were addressed in a previous enforcement action involving the same party at the same facility or site.

STEP 1 Determine the total number of alleged violations incurred and the period of time during which they occurred. Confirm all the pertinent facts.

STEP 2 Calculate the **statutory maximum** penalty amount.

Statutory Maximum Penalty = No. of violations x Days of violation x (statutory maximum penalties per violation per day of violation as set forth in the applicable Act).

[NOTE: This amount is calculated only to determine the potential maximum penalty liability. The total civil penalty settlement amount cannot, by law, exceed this amount.]

STEP 3 Calculate the violation **"gravity component"** using the program-specific penalty determination methodology, i.e., established procedures using penalty matrices, case peer review, etc.

STEP 4 Multiply the gravity component by .5 to 1.0 (50%-100%) to derive a **"violation recurrence component"** for a repeat violation within a three (3) year period.

Third or subsequent repeat violation(s): Multiply the gravity component by 1.0 to 3.0 (100%-300%) for a third or subsequent repeat violation within a five (5) year period.

STEP 5 Multiply the gravity component by zero to 1.5 (0%-150%) to derive a **"recalcitrance component."**

[NOTE: The penalty may be adjusted upward to address the documented demonstration of uncooperativeness, i.e.; unjustified delays in preventing, correcting, or mitigating violations, violations of previous orders, failure to provide timely or complete information, etc.]

[SECOND NOTE: If this component was considered as part of the process used to calculate the gravity component, enter zero.]

STEP 6 Determine appropriate **"adjustments"** to the civil penalty, i.e., 1) economic benefit, 2) other pertinent, mitigating factors associated with the recurrence of the violation(s), 3) voluntary disclosure of the violation, pursuant to the S.C. Environmental Audit and Voluntary Disclosure Act, or 4) program-specific adjustment amounts.

[NOTE: Economic benefit may have been an issue as part of the original enforcement action, e.g., capital expenditures made to install pollution control equipment. Accordingly, economic benefit derived from repeat violations may be the result of failing to properly operate or maintain the equipment, e.g., failing to purchase the chemicals necessary for adequate treatment, failure to run or repair the equipment as necessary to comply, or expenditure avoidance generally.

This calculation can only be made using either actual costs or reasonable capital and operational cost estimates for installing and operating pollution control equipment that would have allowed the responsible party to be in compliance. In calculating economic benefit, enforcement staff may utilize the EPA computer model as appropriate. If this information is not available at the time of the enforcement conference, then the penalty may be adjusted at a later date to include this penalty component.]

STEP 7 Those entities which have been evaluated as having repeat violations should also be considered on a multimedia basis and/or on a

corporate-wide basis. Those situations of noncompliance that are determined to be multimedia and/or corporate-wide, including those violations that have caused environmental harm or are a threat to the public's health, should be referred to the Deputy Commissioner for EQC by the Bureau Chief. The Deputy Commissioner may conduct a conference with appropriate representatives of the entity. If the Deputy Commissioner, in consultation with the Commissioner, determines that sanctions other than further orders are required, Department staff will initiate the appropriate actions, to include but not be limited to, preparation of an order to revoke some or all permits held by the entity, preparation of an order requiring cessation of operations, or initiation of a court action seeking specific relief.

SUMMARY

The total civil penalty settlement amount is based upon the following formula:

Civil Penalty = Gravity Component + Violation Recurrence Component + Recalcitrance Component +/- Adjustments.

NOTE: It is recommended that a civil penalty assessment rationale be developed for each enforcement action for which a civil penalty is assessed. This rationale should be retained pending resolution of the enforcement action.

SECOND NOTE: This guide does not apply to programs for which penalty amounts for repeat violations are set forth in either statute or regulation.

Nothing contained herein shall be construed to limit the authority of the Commissioner to take necessary action without following the steps of this Penalty Calculation Guide.

IV. GENERAL PROVISIONS

1. Where a condition exists or a violation has occurred which

may result in a serious risk to the health and safety of persons or the environment, the Department may take appropriate action as authorized by statute or regulation to address the problem.

2. This policy does not preclude the use of criminal sanctions in appropriate circumstances. Procedures for the referral of enforcement matters for criminal investigation and prosecution are contained in the "Uniform Criminal Referral Policy for Environmental Quality Control," approved by the Board of Health and Environmental Control on August 8, 1991, which procedures are adopted and incorporated herein by reference, and shall be followed for criminal enforcement matters.

3. Reports on Consent and Administrative Orders issued each month by the Office of Environmental Quality Control shall be made to the Board.

4. Each Bureau within the Office of Environmental Quality may establish a Bureau policy on enforcement procedures and the assessment of civil penalties provided such procedures are consistent with this policy.

5. The procedures set out in this policy are intended as guidance for Environmental Quality Control staff. They are not intended and cannot be relied upon to create rights, substantive or procedural, enforceable by any party involved in enforcement proceedings or matters of litigation with the Department. The Department reserves the right to act in variance with this policy.

This policy replaces the Uniform Enforcement Policy approved by the DHEC Board on June 24, 1982, and amended August 25, 1983 and December 12, 1991.

September 9, 1999

South Carolina Department of Health & Environmental Control
Office of Environmental Quality Control
January 2010

An Overview of the Administrative Enforcement Process

This document is provided as guidance and should not be relied upon as legal advice.

Introduction

This information sheet has been prepared to help you better understand the SC Department of Health and Environmental Control's (Department) enforcement process. Since you received a Notice of Alleged Violation/Notice of Enforcement Conference (NOAV/NOEC), we want you to adequately prepare to meet with staff to resolve this matter of regulatory concern. It is the Department's foremost goal to assist you in maintaining full compliance. Enforcement is one tool to help ensure that obligations to safeguard the environment are met through strict adherence to regulations and environmental permit requirements, terms, and conditions are fulfilled. The following are answers to questions most frequently asked by people involved in this process.

****

What is a Notice of Alleged Violation/Notice of Enforcement Conference (NOAV/NOEC)?

The NOAV/NOEC is the first step in the administrative enforcement process. When it is discovered that an environmental law or regulation may have been violated, a NOAV/NOEC may be issued. The notice outlines the Office of Environmental Quality Control's (EQC) findings, identifies the law, regulation, or permit requirement EQC believes was violated, and invites the responsible party (Respondent) to attend an enforcement conference. The Respondent may accept EQC's findings and elect not to attend a conference, in which case an order is drafted, if appropriate, for the Respondent's review and signature.

****

Why is an enforcement action necessary?

There are different factors considered by EQC staff when deciding to initiate an enforcement action. Most fall within the following: 1) the specific type of alleged violation identified may require EQC to take a formal enforcement action, 2) the alleged violation is serious or a threat to public health or the environment, or 3) the alleged violation has not been corrected within a reasonable period of time.

****

What is an enforcement conference and what can I do to prepare for it?

The enforcement conference is a voluntary, informal meeting between EQC staff and the Respondent. The NOAV/NOEC you received contains a summary of known issues of regulatory concern and provides the basis for discussion. It is important to be fully prepared to present any information that will enable staff to make a fair and sound decision concerning the allegations. You should also be prepared to report any corrective action(s) taken or planned.

****

Who should I bring to the conference and who from EQC will be present?

People who are most familiar with the issues and who have decision-making authority on behalf of the Respondent should plan to attend. You may have legal and/or technical representation if you choose. An enforcement project manager, regional staff, technical support, and other compliance personnel involved with the matter will represent the Department. A staff attorney representing EQC is generally not in attendance. However, if you choose to have legal counsel present, you are asked to notify the Department at least five days prior to the conference and the Department may decide to have agency legal counsel attend. Also, if the Department determines it is necessary for legal counsel to be present you will be notified at least five days prior to the conference. The enforcement conference is closed to the public and media per a DHEC Board approved policy.

****

What can I expect to happen at the enforcement conference and what may result?

EXHIBIT
10 b.

As the Respondent, you can expect a fair evaluation of the circumstances surrounding the issues of concern. Staff will ask questions and determine a reasonable response based upon consideration of the facts. After the conference, staff will review the information gathered and decide on one of four possible outcomes: 1) the Department determines that the event is not a violation and is dismissed; 2) the Department determines the violation is properly alleged, but there is justification to resolve the matter without the issuance of an order; 3) the Department determines the violation is properly alleged, and you are given the opportunity to resolve the issue by entering into a Consent Order with the Department; or 4) the Department determines the violation is properly alleged and an Administrative (unilateral) Order is issued.

****

What is a consent order?

A Consent Order is a legally binding, enforceable document, with terms and conditions agreed upon by you and the Department. In signing a Consent Order, you waive your right to an administrative appeal, but the additional time and costs associated with an administrative hearing and other potential court-related costs are avoided.

****

What is the purpose of a civil penalty; how is the penalty amount determined; and who gets the money?

Civil penalties are issued for the violation of federal and state environmental laws. The decision to assess a penalty depends upon the type of violation alleged and other factors. Among other factors, civil penalties are intended to deter future noncompliance and eliminate any economic incentive for noncompliance. The penalty is calculated in accordance with the Department's Uniform Enforcement Policy. The amount of the civil penalty is designed to reflect the frequency, duration, and severity of the violation(s). Some other factors may be considered, such as compliance history, degree of negligence or willfulness, and economic benefit gained through noncompliance. The money collected is either sent to the State's General Fund, or a portion to the county in which the violation occurred, or otherwise dispersed as required by state law.

****

If I have corrected the noted violations, why would a civil penalty still be assessed?

To promote fairness and consistency within the administrative enforcement process, civil penalties are typically assessed for certain violations. However, if you demonstrate good faith efforts to promptly correct the alleged violation, staff will favorably consider these actions when calculating any penalty. Other factors that may affect the penalty amount include measures taken to prevent recurrence and other mitigating factors.

****

Why should I attempt to resolve the enforcement action with a consent order?

There are often significant savings in time and money when the parties in an enforcement action can reach an agreed upon resolution. If, however, an agreement to the terms, conditions and/or any civil penalty proposed in a Consent Order cannot be reached, the Department may issue an Administrative (unilateral) Order without your consent. The Administrative Order would include findings of fact, conclusions of law, and contain specific requirements addressing the violation(s) and the civil penalty may be higher based on factors under consideration.

****

If an agreed upon resolution is not reached and an order is issued without my consent, what are my options?

A Respondent may seek further review as set forth in the Notice of Appeal Procedure which is on the Department's Website at:
http://www.scdhec.gov/environment/baq/docs/DepartmentDecisions/Notice_of_Appeal_Procedure.pdf

D H E C

PROMOTE PROTECT PROSPER

South Carolina Department of Health and Environmental Control

South Carolina Department of Health and Environmental Control - www.scdhec.gov

Ocean & Coastal Resource Management (OCRM)

Uniform Enforcement Policy for the Office of Ocean and Coastal Resource Management

EXHIBIT
Tabbies 10.C.

Policy Approved by DHEC Board on September 11, 2008

I. GENERAL PURPOSE

This policy describes enforcement procedures for the permitting programs within the South Carolina Department of Health and Environmental Control (Department), office of Ocean and Coastal Resource Management (OCRM). This policy provides uniform procedures for the conduct of enforcement actions and uniform criteria for the assessment of civil penalties.

II. ENFORCEMENT GOALS

Enforcement of South Carolina's coastal laws and regulations is an essential tool for fulfilling OCRM's goal of protecting and enhancing the State's coastal resources by preserving sensitive and fragile areas while promoting responsible development in the eight coastal counties of South Carolina. The coastal enforcement program seeks to achieve one or more of the following objectives:

1. Return a violator to full compliance with applicable statutes and regulations;
2. Act as a penalty and deterrent against future noncompliance;
3. Ensure that enforcement actions are fair, consistent, clearly communicated, documented and defensible; and,
4. Combined with compliance assistance where appropriate, achieve, maintain, and enhance compliance.

III. ENFORCEMENT AND COMPLIANCE

The enforcement program within OCRM utilizes a range of enforcement and compliance tools to address violations and achieve a full return to compliance by a regulated entity. The enforcement response will depend on the nature, type and severity of the violations. By way of illustration, but without limiting the authority of the enforcement program to select an appropriate enforcement response, the following actions may be taken:

1. Notice of Violation. The Notice of Violation outlines the Department's findings and identifies the applicable statutes and/or regulations violated. Typically, this document will also include notice of a scheduled enforcement conference. When concerning the Coastal Zone Management Act and applicable regulations, this document may be combined with an Admissions Letter.
2. Admission Letter. Under the Critical Area Permitting Regulations, as amended, an admission letter is used to provide a recipient the opportunity to respond to the Department's findings in writing, within 15 days of receipt. Failure to respond shall result in a conclusion by the Department that the findings are true.
3. Warning Notice. A Warning Notice is used to notify a responsible party of a violation and to request the party to immediately stop that activity until corrective measures are taken and completed as required.
4. Warning Letter. A warning letter may be used to document violations, set forth a time frame for correction, or provide notice that subsequent violations may result in a formal enforcement action. Warning letters may be used for first-time violators with no previous history of noncompliance and where there is minimal or no actual or potential threat to public health or the environment.
5. Consent Order. A Consent Order is a legally binding and enforceable document, the terms and conditions of which are agreed upon by both the Department and the responsible party. The signing of a Consent Order waives the responsible party's right to an administrative appeal.
6. Administrative Order. An Administrative Order is an order issued without the responsible party's consent. An Administrative Order can be appealed be in accordance with the rules of procedure of the Administrative Law Court.
7. Consent Agreement. A Consent Agreement is a legally binding, enforceable document used to establish a compliance schedule with a responsible party who has demonstrated cooperation with the Department in addressing an environmental concern. The signing of a Consent Agreement waives the responsible party's right to an administrative appeal.

IV. CIVIL ENFORCEMENT PROCEDURES

1. When the Department determines an apparent violation of any applicable statute, regulation, standard, or permit and the alleged violation can be adequately documented, the Department will initiate an enforcement response that may include one or more of the enforcement actions described in Section III.
2. If a Notice of Violation is issued, it will specify the alleged violations and identify the associated laws or regulations. The Notice may also require a response within a specified time as to the measures the responsible party must take to address the alleged violations (corrective action). An enforcement conference will be scheduled with the responsible party on a specified date, time, and location to discuss known issues of regulatory concern, the Department's findings, the laws and regulations or permit conditions the Department alleges were violated, corrective actions taken, and any other information pertaining to the

enforcement matter.

3. Several outcomes are possible subsequent to participation in an enforcement conference:
   a. The Department determines that the alleged violations are not violations and the matter is resolved with no further action required;
   b. The violations are properly alleged, but there is justification to resolve the matter without the issuance of an order; in these instances, a consent agreement, warning letter, or other mechanism may be used;
   c. The violations are properly alleged, and the Department and the responsible party mutually agree to enter into a Consent Order; or
   d. An agreement cannot be reached regarding the violations and the Department determines that an Administrative Order should be issued. An Administrative Order will be forwarded to the party by certified mail or personal delivery. All Administrative Orders shall be forwarded to the Deputy Commissioner (or designee) for signature through the Chief Counsel for the office of Ocean and Coastal Resource Management. An Administrative Order may be appealed pursuant to applicable law, including S.C. Code Title 44, Chapter 1 and Title 1, Chapter 23.
4. Upon a determination that conditions or provisions of a previous order have not been met, the enforcement program, in consultation with the OCRM Chief Counsel, may issue a Notice of Violation and initiate one or more of the following actions:
   a. Amend the original order to include a revised schedule of compliance, necessary modifications, and assessment of civil penalties;
   b. Issue a new order to include a revised schedule, necessary modifications, and assessment of civil penalties; or
   c. Refer the matter to the OCRM Chief Counsel for action as appropriate

V. CIVIL PENALTY ASSESSMENT GUIDELINES

1. The following guidelines are provided for the administrative assessment of civil penalties that are provided by law for the violation of any statute, regulation, standard, permit, or order. The guidelines are provided for the following general purposes:
   a. To provide uniform and objective criteria against which penalties are assessed for violations;
   b. To deter future violations;
   c. To ensure that penalties are appropriate for the gravity of the violation committed;
   d. To eliminate economic incentives for noncompliance; and,
   e. To promote fairness and consistency in the assessment of penalties for similar violations.
2. Any one or combination of factors shall be considered in the assessment of civil penalties:
   a. Degree of harm or potential for harm to the public health/environment or coastal resources;
   b. Extent of deviation from the requirements of the statute, regulation, standard or permit;
   c. Frequency or duration of the violation. This may include multiple or multi-day violations;
   d. Economic benefit as a result of noncompliance. This may include any evidence of economic advantage gained through noncompliance;
   e. Cost of restoration of the environment or abatement of the environmental harm;
   f. Past performance record or past history of violation;
   g. Degree of willfulness and/or negligence;
   h. Any additional pertinent factors that measure the seriousness or frequency of the violation or the conduct of the party.
3. Circumstances may warrant the downward adjustment of a civil penalty. It will be the responsibility of the responsible party to present documentation of mitigating circumstances that may be considered by staff in setting the amount of the civil penalty. Any one or combination of the following factors may be considered in making a downward adjustment in the amount of a civil penalty:
   a. The degree of cooperation by the responsible party in remedying the violation or resolving the problem;
   b. Any measures taken to avoid repetition of the violation. However, no downward adjustment should be made for measures taken for the sole purpose of coming into regulatory compliance;
   c. Good faith efforts to comply with requirements. However, no downward adjustment should be made for good faith efforts consisting solely of coming into regulatory compliance;
   d. Ability to pay. If the responsible party makes a claim of inability to pay, the responsible party must present the necessary complete financial information to enforcement staff to make this determination;
   e. Waiver or reduction of the penalty pursuant to the Small Business Regulatory Flexibility Act of 2004, as amended. However, the responsible party must qualify as a "small business" as defined by the Act and the Department must determine that the criteria of Section 1-23-290(E) have been met;
   f. Other pertinent factors.
4. The OCRM Civil Penalty Assessment Guideline will be used in the development of every civil penalty. This will promote consistency in assessed civil penalties.
5. The following guidelines are provided for those instances where the Department has determined that the violations are considered repeat violations. "Repeat violations," for the purposes of this guidance, are those violations that are similar or are related to violations that were addressed in a previous enforcement action involving the same party, facility, or site.

   STEP 1: Determine the total number of alleged violations incurred and the period of time during which they occurred. Confirm

all the pertinent facts.

STEP 2: Calculate the statutory maximum penalty amount.

Statutory Maximum Penalty = Number of violations x Days of violation x Statutory maximum penalties per violation per day of violation as set forth in the applicable Act.

(NOTE: This amount is calculated only to determine the potential maximum penalty liability. The total civil penalty settlement amount cannot, by law, exceed this amount.)

STEP 3: Calculate the violation "gravity component" using the program-specific penalty determination methodology, i.e., established procedures using penalty matrices, case peer review, etc.

STEP 4: Multiply the gravity component by .5 to 1.0 (50%-100%) to derive a "violation recurrence component" for a repeat violation within a three (3) year period.

Third or subsequent repeat violation(s): Multiply the gravity component by 1.0 to 3.0 (100%-300%) for a third or subsequent repeat violation within a five (5) year period.

STEP 5: Multiply the gravity component by zero to 1.5 (0%-150%) to derive a "recalcitrance component."
NOTE: The penalty may be adjusted upward to address the documented demonstration of uncooperativeness, i.e., unjustified delays in preventing, correcting, or mitigating violations, violations of previous orders, failure to provide timely or complete information, etc.

[SECOND NOTE: If this component was considered as part of the process used to calculate the gravity component, enter zero.]
STEP 6: Determine appropriate "adjustments" to the civil penalty, i.e., 1) economic benefit, 2) other pertinent, mitigating factors associated with the recurrence of the violation(s), or 3) program-specific adjustment amounts.

In summary, the calculation for the total civil penalty amount for repeat violations is based upon the following formula:

Civil Penalty = Gravity Component + Violation Recurrence Component + Recalcitrance Component +/- Adjustments.

6. Those entities that have been evaluated as having repeat violations should also be considered on a multi-media basis and/or on a corporate-wide basis. Those situations of noncompliance that are determined to be multi-media and/or corporate-wide, including those violations that have caused environmental harm or are a threat to the public's health, should be referred to the Deputy Commissioner for OCRM. The Deputy Commissioner may conduct a conference with appropriate representatives of the entity. If the Deputy Commissioner in consultation with the Commissioner determines that sanctions other than further orders are required Department staff will initiate the appropriate actions to include but not be limited to preparation of an order to revoke some or all permits held by the entity, preparation of an order requiring cessation of operations, or initiation of a court action seeking specific relief.
7. A civil penalty assessment rationale will be developed for each enforcement action for which a civil penalty is assessed. Penalty calculations shall be retained according to established guidance.
8. If a responsible party is found to meet the criteria pursuant to Section 48-57-100(B) of the Environmental Audit Privilege and Voluntary Disclosure Act, as amended, the Department may waive any associated penalties.
9. Nothing contained herein shall be construed to limit the authority of the Commissioner or Deputy Commissioner to take necessary action.

VI. GENERAL PROVISIONS

1. Where a condition exists or a violation has occurred which may result in a serious risk to the health and safety of persons or the environment, the Department may take appropriate action as authorized by statute or regulation to address the problem.
2. This policy does not preclude the use of criminal sanctions in appropriate circumstances. Procedures for the referral of enforcement matters for criminal investigation and prosecution will be undertaken pursuant to applicable statute and regulations.
3. Reports of Consent and Administrative Orders shall be made to the Board as requested.
4. The procedures set out in this policy are intended as guidance for OCRM staff. They are not intended and cannot be relied upon to create rights, substantive or procedural, enforceable by any party involved in enforcement proceedings or matters of litigation with the Department. The Department reserves the right to act in variance with this policy.

Policy Approved by DHEC Board on September 11, 2008

Resources

- Coastal Tidelands and Wetlands Act, Civil Penalty Information
- DHEC Environmental Protection Fees and Fines Regulation
- DHEC Environmental Quality Control Uniform Enforcement Policy

D H E C

PROMOTE PROTECT PROSPER

Notice of Intent (NOI) for Stormwater Discharges from Large and Small Construction Activities, NPDES General Permit SCR100000

For official use only

File number: _____

Permit number: SCR10 _____

Submittal package complete: _____

Public Notice Start Date (OCRM only): _____

For official use only

EXHIBIT

Submission of an NOI constitutes notice that the entity identified in Section I intends to be authorized under SCR100000. Instructions on page 5.

Date:

Project/ Site Name: _____ **County:** _____

Do you want this project to be considered for the Expedited Review Program (ERP)? ☐Yes ☐No (See instructions.)

If yes, is the design of this project above regulatory requirements or Low Impact Development? ☐Yes ☐No

I. Project Information

Project Owner/ Operator (Company or person): _____

Company EIN: ☐☐-☐☐☐☐☐☐ Phone: _____ Fax: _____

Mailing Address: _____ City: _____ State: _____ Zip: _____

Permit Contact (if owner is company): _____ Phone: _____

Mailing Address: _____ City: _____ State: _____ Zip: _____

Email address (optional): _____

II. Property Information

A. Site Location (street address, nearest intersection, etc.): _____

City/ Town (if in limits): _____ Latitude: __° __ ' __ " N Longitude: __° __ ' __ " W

Tax map # (list all): _____

B. Property Owner: _____ Phone: _____

Mailing Address: _____ City: _____ State: _____ Zip: _____

III. Site Information

A. Disturbed area (to the nearest tenth of an acre): _____ acres Total area: _____ acres

B. Is this project part of a Larger Common Plan for Development or Sale (LCP)? ☐Yes ☐No

LCP/ Overall Development Name: _____ Check here if this is the first phase. ☐

Previous state permit/ file number: _____ Previous NPDES coverage number: SCR10☐☐.☐

C. Start Date (MM/DD/YYYY): _____ Completion Date: _____

D. Is this site located on Indian Lands? ☐Yes ☐No If yes, name of reservation. _____

E. Type of Activity (check one):

☐ Commercial ☐ Industrial

☐ Institutional ☐ Residential: Single-family ☐ Multi-use (Commercial & Residential) ☐ Other: _____

☐ Linear ☐ Residential: Multi-family ☐ Site Preparation (No new impervious)

F. Are there any flooding problems downstream of or adjacent to this site? ☐Yes ☐No

G. Has S.C. DHEC issued a Notice to Comply or Notice of Violation for this site or LCP? ☐Yes ☐No

H. Is any part of the property located inside an MS4 or urbanized area? ☐Yes ☐No

If yes, list the MS4 operator or urbanized area name. _____

I. List all state and federal environmental permits or approvals applied for or obtained for this site (e.g., RCRA). _____

IV. Waterbody Information

A. Nearest receiving waterbody(s) [RWB]: _____ Distance to nearest RWB (feet): _____

Classification of nearest RWB: _____ Next/Nearest named RWB: _____

B.1. Waters of the U.S./ State	On the site?	Delineated/ Identified?	Impacts?	Amount of impacts
a. Jurisdictional wetlands	☐Yes ☐No	☐Yes ☐No	☐Yes ☐No	____ Ac
b. Non-jurisdictional wetlands	☐Yes ☐No	☐Yes ☐No	☐Yes ☐No	____ Ac
c. Other Water(s) List: _____	☐Yes ☐No	☐Yes ☐No	☐Yes ☐No	____ Ac ____ Feet

2. If yes for impacts in B.1, describe each impact and activity, and list all permits (e.g., USACOE Nationwide permit, DHEC General Permit) and certifications that have been applied for or obtained for each impact.

_____

_____

_____

C. Impaired Waterbodies (See instructions.)
List the nearest DHEC water quality monitoring station(s) [WQMS(s)] to which construction stormwater (SW) discharges will drain and the corresponding waterbody(s). _____ Waterbody(s): _____

1. Is this WQMS(s) listed on the most current 303(d) List for Impaired Waters? ☐Yes ☐No
   a. If yes for 1, list the impairment(s). _____
   b. If yes for 1, will the site's construction SW discharges contain any pollutant(s) causing the impairment(s)? ☐Yes ☐No
   c. If yes for b, list the impairment(s) affected by the pollutant(s) referenced in b. _____
   d. If yes for b, will use of the proposed BMPs ensure that the site's discharges will not contribute to or cause further water quality standard violations for the impairment(s) listed in c? ☐Yes ☐No
2. Has a TMDL(s) been developed for this WQMS(s)? ☐Yes ☐No
   a. If yes for 2, list the impairment(s). _____
   b. If yes for 2, has the standard been attained for all impairment(s)? ☐Yes ☐No
   c. If no for b, will the site's construction SW discharges contain any pollutant(s) causing the impairment(s)? ☐Yes ☐No
   d. If yes for c, are your discharges consistent with the assumptions and requirements of the TMDL(s)? ☐Yes ☐No

D. 1. Are S.C. Navigable Waters (SCNW) on the site? ☐Yes ☐No
   a. If yes for 1, list the name of the SCNW: _____
   b. If yes for 1, will any construction activities cross over or occur in, under, or through the SCNW? ☐Yes ☐No
   c. If yes for b, then describe activities. _____
   d. If yes for b, are the activities in SCNW covered under a DHEC General Permit or other DHEC permit? ☐Yes ☐No
   e. If no for d, has an SCNW permit been applied for or issued for the site? ☐ Yes, for all activities ☐Yes, for some activities ☐No.
   f. If yes for d or e, list permit number(s) and corresponding activities. _____

V. <u>Operator Information</u>

A. SWPPP Preparer: _____ S.C. Registration #: ☐☐☐☐☐
Company/ Firm: _____ S.C. COA #: ☐☐☐☐☐
Mailing Address: _____ City: _____ State: _____ Zip: _____
Phone: (Day) _____ (Mobile) _____ (Fax) _____
Email address (optional): _____

B. Operator of Day-to-Day Site Activities [ODSA] (Company or person): _____
Mailing Address: _____ City: _____ State: _____ Zip: _____
Phone: _____ Fax: _____
Site Contact (if ODSA is company): _____ Phone: _____

VI. <u>Signatures and Certifications: DO NOT SIGN IN BLACK INK!</u>

A. One copy of the SWPPP, all specifications and supporting calculations, forms, and reports are herewith submitted and made a part of this application. I have placed my signature and seal on the design documents submitted signifying that I accept responsibility for the design of the system. Further, I certify to the best of my knowledge and belief that the design is consistent with the requirements of Title 48, Chapter 14 of the Code of Laws of SC, 1976 as amended, pursuant to Regulation 72-300 et seq., and in accordance with the terms and conditions of SCR100000. (This should be person identified in Section V.A.)
Check one. ☐Engineer ☐Tier B Surveyor ☐Landscape Architect

Printed name of SWPPP Preparer	**Signature of SWPPP Preparer**	**S.C. Registration #**

B. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

I hereby certify that all land-disturbing construction and associated activity pertaining to this site shall be accomplished pursuant to and in keeping with the terms and conditions of the approved plans and SCR100000. I also certify that a responsible person will be assigned to the project for day-to-day control. I hereby grant authorization to the to S. C. Department of Health and Environmental Control (DHEC) and/or the local implementing agency the right of access to the site at all times for the purpose of on site inspections during the course of construction and to perform maintenance inspections following the completion of the land-disturbing activity. (See Section 122.22 of S.C. Reg. 61-9 for signatory authority information.)

Printed name of Project Owner/Operator	**Signature of Project Owner/ Operator**	**Date**

NPDES CGP Fee Schedule A

(All Counties EXCEPT Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper)

This schedule should not be used for projects reviewed by a delegated entity or MS4 operator.

If you are completing the fillable version of this form and if the **County** and **Disturbed Area** fields are correctly filled out on page 1 of this form, the fees in the right-hand column will be automatically entered based on your answers to the questions below. The schedule should be attached to DHEC Form 2617. Do not send payment in window envelope. DO NOT MAIL CASH. DHEC will notify the Project Owner/ Operator if the submitted check or credit card payment cannot be processed. The review clock will start when acceptable payment is received.

1. **Will this project or LCP (item III.B) ultimately disturb 1 acre or more?** ☐Yes ☐No $_____.00
   If yes, enter $125 in right-hand column and proceed to item 2. If no, coverage under SCR100000 is not required; see BOW-SPWS for "Small Project Requirements in Non-Coastal Counties".
2. **a. Will this project or LCP ultimately disturb more than 2 acres?** ☐Yes ☐No
   If no, review fees are not initially required*; proceed to item 3.
   b. If yes for 2a, is this project exempt from S.C. Reg. 72-300 et seq.? ☐Yes ☐No
   If yes for 2b, review fees are not initially required*; proceed to item 3.
   If yes for 2a and no for 2b, enter review fees of $100/ **disturbed** acre (from item III.A on page 1) in right-hand column. The review fees cannot exceed $2000. Proceed to item 3. $_____.00
3. **Total Required Fees**
   Add the values in the right-hand column. Maximum required fees are **$2125**. DHEC will not review this project until all required fees are received. **Total Required Fees:** $_____.00

* If DHEC will review the project, then DHEC will notify the Project Owner/ Operator in writing within 20 business days of receipt of the complete NOI and request review fees.

Payment by Check:

Make sure check is signed and has a current date on it. If check is more than 30 days old, it may be returned. The check must be for the entire amount of required fees.

STAPLE CHECK HERE

Make check payable to S.C. DHEC.

Payment by Credit Card:

Fill out the information below. Make sure that the authorized signature is complete.

Name as it appears on Card: _____ Phone: _____

Mailing Address: _____ City: _____ State: ____ Zip: _____

Type of Card: ☐Visa ☐MasterCard ☐Discover Credit Card Number: _____

Expiration Date (MM/YYYY): _____ Credit Validation Value (3-digit # on back of card): ____

Authorized Signature: _____

For official use only: **Invoice Number** QB _ _ _ _ _ _

NPDES CGP Fee Schedule B
(Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper Counties)

This schedule should not be used for projects reviewed by a delegated entity or MS4 operator.

If you are completing the fillable version of this form and if the **County** and **Disturbed Area** fields are correctly filled out on page 1 of this form, the fees in the right-hand column will be automatically entered based on your answers to the questions below. This schedule should be attached to DHEC Form 2617. Do not send payment in window envelope. DO NOT MAIL CASH. DHEC will notify the Project Owner/ Operator if the submitted check or credit card payment cannot be processed. The review clock will start when acceptable payment is received and after the project is deemed consistent with the S.C. Coastal Zone Management Plan.

1. **Is this project located within ½ mile of a RWB (item IV.A)?** ☐ Yes ☐ No
   If yes, proceed to item 2. If no, proceed to item 3.
2. **a. Will this project or LCP (item III.B) ultimately disturb more than 0.5 acre?** ☐ Yes ☐ No $_____.00
   If yes, enter $125 in right-hand column and proceed to 2b. If no, see OCRM-SPWS for "Small Project Requirements in Coastal Counties" and proceed to 2c.
   b. If yes for 2a, is this project exempt from S.C. Reg. 72-300 et seq? ☐ Yes ☐ No
   If yes for 2b, review fees are not initially required*; proceed to item 4.
   If yes for 2a **and** no for 2b, enter review fees of $100/ **disturbed** acre (from item III.A on page 1) in right-hand column. The review fees cannot exceed $2000. Proceed to item 4. $_____.00
   c. If no for 2a, does this project meet the criteria of categories a, d, or e listed in the "SCCZ Requirements" section of the instructions (page 6)? ☐ Yes ☐ No
   If no for 2a **and** yes for 2c, enter $125 in the right-hand column. Then, enter review fees of $100/ disturbed acre (from item III.A on page 1) on this line in the right-hand column and proceed to item 4. $_____.00 $_____.00
3. **a. Will this project or LCP (item III.B) ultimately disturb 1 or more acres?** ☐ Yes ☐ No $_____.00
   If yes, enter $125 in right-hand column and proceed to 3b. If no, coverage under SCR100000 is not required; see OCRM-SPWS for "Small Project Requirements in Coastal Counties".
   b. If yes for 3a, is this project exempt from S.C. Reg. 72-300 et seq.? ☐ Yes ☐ No
   If yes for 3b, review fees are not initially required; proceed to item 4.
   If yes for 3a **and** no for 3b, enter review fees of $100/ **disturbed** acre (from item III.A on page 1) in right-hand column. The review fees cannot exceed $2000. Proceed to item 4. $_____.00
4. **Total Required Fees**
   Add the values in the right-hand column. Maximum required fees are $2125. DHEC will not review this project until all required fees are received. **Total Required Fees:** $_____.00

* If DHEC will review the project, then DHEC will notify the Project Owner/ Operator in writing within 20 days of receipt of the complete NOI and request review fees.

Payment by Check:
Make sure check is signed and has a current date on it. If check is more than 30 days old, it may be returned. The check must be for the entire amount of required fees.

STAPLE CHECK HERE

Make check payable to S.C. DHEC.

Payment by Credit Card:
Fill out the information below. Credit card payments must be processed by the applicant online at http://www.scdhec.gov. Upon receipt of the NOI, OCRM will provide a memo to the applicant containing directions for processing application fees online and specific invoice numbers necessary for online payment.

Name as it appears on Card:_____ Phone:_____
Mailing Address:_____ City:_____ State:_____ Zip:_____

For official use only: Invoice Numbers YE _____ **YA** _____ **ZV** _____ **ZT** _____

Instructions

If you are uncertain whether you need to obtain coverage under the NPDES Stormwater Construction General Permit, SCR100000 (CGP), if you cannot access the websites listed on the NOI and instructions, or if you have any other questions, contact the Bureau of Water Stormwater Permitting Section (**BOW**) at (803) 898-4300 or OCRM Stormwater Permitting Section (**OCRM**) at (843) 953-0200. Please see the Bureau of Water, Stormwater Permitting website (**BOW-SPWS**: http://www.scdhec.gov/stormwater) for guidance and additional information regarding the CGP. For additional information about and requirements for projects in the S.C. Coastal Zone (**SCCZ**—Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper counties), please see the Office of Ocean and Coastal Resource Management, Stormwater Permitting website (**OCRM-SPWS**): http://www.scdhec.gov/environment/ocrm/permit/stormwater.htm.

Who Must File an NOI:

- The Owner/ operator of a single project or larger common plan for development or sale (LCP—see item III.B of instructions) that will ultimately disturb 1 acre or more (all counties). If S.C. Department of Transportation (SCDOT) is the Project Owner/ Operator, this NOI form (Form 2617) should not be used.
- In the **SCCZ**, the Owner/ operator of a single project or LCP that is within ½ mile of a receiving waterbody (RWB—see item IV.A of the instructions) and will ultimately disturb more than 0.5 acre.
- In the **SCCZ**, the Owner/ operator of a single project or LCP that is within ½ mile of a receiving waterbody (RWB—see item IV.A of the instructions) and meets the criteria of categories **a-e** listed in the **"SCCZ** Requirements" section below.
- See the **BOW-SPWS** for "Small Project Requirements in Non-Coastal Counties" and **OCRM-SPWS** for "Small Project Requirements in Coastal Counties".

Where to File:

See the **BOW-SPWS** for a current list of the areas that are reviewed by Municipal Separate Storm Sewer System (MS4) operators and entities that have delegated review authority. For projects in these areas, the initial submittal should be made to the MS4 operator; if initial submittal is made to DHEC for projects in these areas, the review process may be delayed. In the **SCCZ**, for projects in MS4 areas, the initial submittal should be made concurrently to OCRM and appropriate MS4 operator. Please contact the appropriate entity for additional information and requirements; for example, the MS4 operator may require that a different application form be submitted. If a project will cross jurisdictional boundaries (e.g., sewer line in Greenville County and the city of Mauldin), then submittals to all appropriate MS4 operators, delegated entities, and DHEC must be coordinated.

For projects in the **SCCZ**, see **OCRM-SPWS** for submittal locations:

S.C. DHEC-OCRM
104 Parker Drive
Beaufort, S.C. 29906

S.C. DHEC-OCRM (Main Office)
1362 McMillan Ave., Suite 400
Charleston, S.C. 29405

S.C. DHEC-OCRM
927 Shine Ave.
Myrtle Beach, S.C. 29577

All other areas: S.C.DHEC—Stormwater Permitting Section
2600 Bull Street
Columbia, SC 29201-1708

Submittal Package for BOW and OCRM:

- You must include the original, signed NOI form, appropriate fee schedule (A or B) with required fees, one (1) copy of the Stormwater Pollution Prevention Plan (SWPPP), and one (1) copy of all other supporting documentation with the initial submittal. For projects in the non-coastal counties disturbing greater than or equal to 1 acre and less than or equal to 2 acres, three (3) copies of the SWPPP and one (1) copy of supporting documentation can be submitted with the initial submittal.
- For projects reviewed by **BOW**, the 20-day review period does not begin until a complete NOI has been received by DHEC. For projects reviewed by **OCRM**, the 20-day review period does not begin until a complete NOI has been received by DHEC and the project has been deemed consistent with the S.C. Coastal Zone Management Plan.
- For projects ultimately disturbing more than 2 acres, the checklist must be completed and attached. In the **SCCZ**, for projects ultimately disturbing 1 acre or more, projects ultimately disturbing more than 0.5 acre within ½ mile of a RWB, and for projects disturbing less than or equal to 0.5 acre within ½ mile of a RWB and meeting the criteria of categories **a**, **d**, or **e** (see the **"SCCZ** Requirements" section below), the checklist must be completed and attached. See **BOW-SPWS** or **OCRM-SPWS** for the most current version of the checklist.

S. C. Coastal Zone (SCCZ) Requirements:

For projects in the following categories (a-e) that are located within ½ mile of a RWB, a registered engineer, landscape architect, or Tier B surveyor must prepare the SWPPP. For other projects (not included within a-e as

follows) that are located within ½ mile of a RWB and will ultimately disturb more than 0.5 acre but less than or equal to 2 acres and, a licensed professional is not required to prepare the SWPPP.

a. All commercial buildings, which will handle hazardous chemicals (including gasoline, kerosene, diesel fuel, nutrients, etc.).
b. All commercial buildings and parking/runway areas with greater than 1 acre of impervious surface (building and parking).
c. All commercial buildings and parking/runway areas with greater than 0.5 acre of impervious surface located directly adjacent to a saltwater (critical) area.
d. All residential subdivision developments located directly adjacent to a saltwater (critical) area.
e. All projects impacting Geographical Areas of Particular Concern (GAPC—see definition in the Critical Area Permitting Regulations: http://www.scdhec.gov/environment/ocrm/regs/docs/CARegs_0606.pdf).

Project/ Site Name: The Project/ Site Name should be a unique or distinguishing name (e.g., not Proposed Subdivision). DHEC should be notified in writing if the Project/ Site Name changes.

County: If the project is in multiple counties, list the county in which the majority of the site is located. If part of the project is in the **SCCZ**, then list the coastal county in which the majority of the site is located and submit the project to the appropriate OCRM office; see the "Where to File" section. List the other counties in which the site is located in the narrative.

Expedited Review Program (ERP): For additional information about ERP, see the ERP website (http://www.scdhec.gov/environment/water/swerfexpedite.htm). To determine if the project design is considered to be above regulatory requirements or Low Impact Development, see the "Expedited Review Standard Operating Procedures" document. DHEC will notify the Project Owner/ Operator if the project is selected for review in the ERP. There are additional required fees for participation in this program; these ERP fees should not be submitted until DHEC has notified the Project Owner/ Operator that the project was selected for participation in the ERP. In the **SCCZ**, please note that projects impacting GAPCs are not eligible for participation in ERP.

I. Project Information

- List the complete, legal name of the Project Owner/ Operator (PO/O); do not list the D/B/A (Doing Business As) name. NPDES coverage under SCR100000 will be issued to the PO/O. If S.C. Department of Transportation (SCDOT) is the PO/O, this NOI form (Form 2617) should not be used.
- The Company EIN is the Employer Identification Number as established by the U.S. Internal Revenue Service; the EIN is commonly referred to as the taxpayer ID. The Company EIN must be for the company listed as the PO/O. If the company does not have an EIN (e.g., single member LLC, sole proprietorship), **DO NOT** list a Social Security number. If the PO/O is not a company, then do not list a Company EIN.
- Enter the complete mailing address of the PO/O. If an email address is entered, DHEC may contact the PO/O via email.
- If the PO/O is a company, then a Permit Contact person should be listed. This can be someone other than the person that has signatory authority for the company. Also, enter the complete mailing address for the Permit Contact person. This can be different from the mailing address entered for the PO/O.
- The PO/O is responsible for all portions of the site until a Notice of Termination (NOT) or Transfer of Ownership form is submitted.

II. Property Information

A. List the site address. If the site address is unknown, list the road name(s) on which the site is located, the nearest intersection, or other detailed description of the site location. List a city/town only if the site is within the city/ town limits. See the following website for assistance in obtaining latitude/ longitude coordinates: http://www.epa.gov/tri/report/siting_tool/index.htm. Latitude (from 32° to 35°) and longitude (-78° to -83°) should be for the center of the site. Minutes (') and seconds (") should be from 0 to 59.

B. List the complete, legal name of the current Property Owner(s) of the site. Enter the daytime phone number for the Property Owner. Also, enter the complete mailing address for the Property Owner. NPDES coverage will be issued to the PO/O (Section I), not the Property Owner, unless same entity. If there are multiple Property Owners, then attach additional sheets with all information in Section II.B of the NOI listed.

III. Site Information

A. Enter the disturbed area for the project and the total site area. The total and disturbed areas must be **rounded to the nearest tenth of an acre**. For subdivisions, if the exact build-out is not known, the disturbed area can be estimated using the following equation:
Disturbed area= 2(Maximum Footprint of House)(# of lots) + Road/ Right-of-Way areas + Other easements/ disturbance.
DHEC must be notified in writing if the actual disturbed area exceeds the disturbed area on the NOI.

B. The plan in LCP is "broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot." [63 Federal Register No. 128, July 6,

1998. p. 36491] For example, if master calculations have been prepared and/ or submitted for an entire site, then all phases and parcels at that site would be considered part of an LCP. If the site is part of a subdivision, industrial park, commercial park, etc., then it is considered to be part of an LCP.

List a unique, distinguishing LCP/ Overall Development name. This name should not reference a specific phase. This LCP/ Overall Development name should also be listed on all NOIs for future projects that are part of this LCP, including subsequent phases. Check the box if this is the first phase of the LCP. List the previous state permit/ file number and previous NPDES coverage number (**DO NOT** enter SCR100000). If the previous state/ file number or NPDES coverage number is not known, contact **BOW** or **OCRM** for assistance.

C. List the estimated start and completion dates of the construction activity.

E. Select **ONE** activity type that most nearly describes the proposed development of the site. "Institutional" includes schools and other publicly owned projects, except Linear projects. "Site Preparation" includes clearing, grubbing, and grading only; no new impervious areas should be proposed if this activity type is selected. If none of the activity types describe the development, then select "Other" and list the activity.

F. If yes, then explain the extent of the flooding problems and the effect of this project on those problems in the project narrative.

G. Select yes if DHEC has issued a Notice to Comply or Notice of Violation for the site or any site within the LCP. Provide additional information about the Notice (e.g., Order number) and a copy of correspondence with DHEC regarding the Notice.

H. If any part of the property is located inside an urbanized area or Municipal Separate Storm Sewer System (MS4), then select yes and list the MS4 operator. Urbanized area boundary maps are available at http://cfpub.epa.gov/npdes/stormwater/urbanmapresult.cfm?state=SC. See the following website for information about MS4s: http://www.scdhec.gov/environment/water/swnsms4.htm.

I. See §122.21(f) of S.C. Regulation 61-9 (http://www.scdhec.gov/environment/water/regs/r61-9.pdf) for a list of permits, approvals, and programs that should be considered. If the provided information is inaccurate, NPDES coverage may be invalid.

IV. Waterbody Information

A. The nearest receiving waterbody (RWB) is the nearest waters of the State (WoS—see definition in §122.2 of S.C. Regulation 61-9— http://www.scdhec.gov/environment/water/regs/r61-9.pdf) to which the site's stormwater discharges will drain. The nearest RWB must be listed in reference to a named waterbody if the RWB is unnamed. For example, if the site's stormwater discharges drain to a stream on the site, then the nearest RWB would be the stream. If the stream is not named, then determine the nearest named waterbody (e.g., Grove Creek) into which the stream will flow and list the nearest RWB as a tributary to the named waterbody (e.g., Tributary to Grove Creek). Then, the next/ nearest named RWB would be Grove Creek. If the site's stormwater discharges drain to multiple waterbodies, then list all such waterbodies; attach additional sheets, if necessary.

See S.C. Regulation 61-69 (http://www.scdhec.gov/environment/water/regs/r61-69.pdf) for a list of classifications of waterbodies within S.C. If the nearest RWB is unnamed, then search the document for the nearest named RWB. If the nearest, named RWB is not listed, then continue searching the document for the next, named waterbody, proceeding downstream from the site. For example, a site in Anderson County drains to a tributary of Hornbuckle Creek, then to Hornbuckle Creek, then to Middle Branch, and then to Brushy Creek/ Big Brushy Creek. First, search the document for Hornbuckle Creek, then Middle Branch, then Brushy Creek. Because there are 3 listings for Brushy Creek, the next, named waterbody (Saluda River) must be determined. Note that the county for this record for Brushy Creek is listed as Pickens because the headwaters of Brushy Creek are in Pickens County. Therefore, the classification of the tributary to Hornbuckle Creek is "FW—Freshwaters".

B. 1. Complete the "On the Site?" column for items a-c. If yes is selected for that column, then the next 3 columns must be completed. If there are other waters of the U.S./ State (WoS) on the site not listed in items a and b (e.g., stream, river, lake, pond), then list those in item c.

Delineation means identification by U.S. Army Corps of Engineers (USACOE) or wetlands consultant. Also, see checklist items 8 and 24 for information about delineation requirements. In the **SCCZ**, WoS must be verified by USACOE. If there are WoS within 100' of the disturbed area that were not delineated/ identified, then explain this in the narrative; this includes WoS that are not on the project site but are within 100' of the disturbed area.

If construction activities will occur in and/ or will impact WoS, then select yes for "Impacts?" and list the amount of impacts to WoS. Provide an additional, separate plan sheet that shows all WoS on the site and the impacted areas. If there are proposed impacts to WoS, please contact USACOE (866-329-8187) and S.C. DHEC Water Quality Certification, Standards & Wetlands Programs Section (803-898-4300) to determine additional requirements before submitting this NOI. In the **SCCZ**, also contact S.C. DHEC-

OCRM Wetlands Section (843-953-0200). Please note that it is the Project Owner/ Operator's responsibility to ensure that all WoS are shown and identified in the SWPPP.

2. USACOE is U.S. Army Corps of Engineers. If there are impacts to waters of the U.S./ State (should be listed in item IV.B.1), then list all permits and certifications that have been applied for or obtained for those impacts. Describe the activity(s), whether the impact is permanent or temporary, and any other relevant information. Provide a copy of all permits and certifications for and correspondence with USACOE and DHEC for the impacts. Make sure to include all plats referenced in the permits or correspondence.

C. Maps showing WQMS locations are available at the following website for each watershed: http://www.scdhec.gov/environment/water/tmdl/index.htm - 303d. In the **SCCZ**, list the nearest upstream and downstream DHEC WQMS(s) and corresponding waterbody(ies).

1. See the following website for the most current 303(d) List for Impaired Waters and related information: http://www.scdhec.gov/environment/water/tmdl/index.htm#303d. To search this document to determine whether a WQMS is listed, select "Edit" from the top toolbar. Then, select "Find". Enter the WQMS exactly as listed on the map and hit enter. If none of the WQMS(s) are found, then select no for item IV.C.1 and proceed to item IV.C.2. If any of the WQMS(s) are found within the document, then select yes and proceed to item IV.C.1.a.
   - **a.** List the cause(s) of the impairment (see last column labeled "CAUSE") for the WQMS(s) and proceed to item IV.C.1.b.
   - **b.** DHEC has determined that construction SW discharges are expected to contain pollutants causing the following impairments: TURBIDITY, BIO (Macroinvertebrate), TP (Total Phosphorus), and TN (Total Nitrogen). You should carefully evaluate whether the site's constructions SW discharges will contain any pollutants causing other impairments, not explicitly listed above. You should also consider previous land uses at the site in answering this question. For example, if the previous land use was a copper processing facility and the impairment at the nearest WQMS is copper, then you should carefully evaluate whether the site's construction SW discharges would contain copper. If this question is answered yes and the disturbed area is less than 25 acres, then provide an evaluation of the site's proposed Best Management Practices (BMPs) as described in section 3.4.C.2(c) of the CGP. If this question is answered yes and the disturbed area is greater than or equal to 25 acres; then provide a written qualitative and quantitative assessment of the site's proposed BMPs as described in section 3.4.C.2(c) of the CGP. See item 22 on the checklist.
   - **c.** Of the impairments listed in item IV.C.1.a, list the impairments that may be affected by pollutants in the site's construction SW discharges. See the instructions for item IV.C.1.b for impairments, which DHEC has determined will be affected by pollutants in construction SW discharges.
   - **d.** If the answer to this question is no, then the site is not eligible for coverage under the CGP.
2. See the following website for a list of Approved S.C. Total Maximum Daily Loads (TMDLs): http://www.scdhec.gov/environment/water/tmdl/tmdlsc.htm. To search this website for a WQMS, select "Edit" from the top toolbar. Then, select "Find on this Page". Enter the WQMS exactly as listed on the map and hit enter. If none of the WQMS(s) are found, then select no for item IV.C.2 and proceed to item IV.D. If any of the WQMS(s) are found within the document, then select yes and proceed to item IV.C.2.a.
   - **a.** List the cause(s) of the impairment/ parameter(s) of concern and proceed to item IV.C.2.b.
   - **b.** See the following website for a list of stations at which the standard has been attained for a specific parameter of concern: http://www.scdhec.gov/environment/water/tmdl/docs/2006tmdl_wqts.pdf. To search this document for a WQMS, select "Edit" from the top toolbar. Then, select "Find". Enter the WQMS exactly as listed on the map and hit enter. If any of the WQMS(s) are found, check the "TMDL Pollutant" column to determine for which impairment(s) the standard has been attained. If the standard has not been attained for all impairments, then select no and proceed to item IV.C.2.c. If the standard has been attained for all impairments for all WQMS(s); select yes and proceed to item IV.D. If none of the WQMS(s) are found, then the standard has not been attained for any impairment(s) for the WQMS(s); select no and proceed to item IV.C.2.c.
   - **c.** DHEC has determined that construction SW discharges are expected to contain pollutants causing the following impairments: TURBIDITY, BIO (Macroinvertebrate), TP (Total Phosphorus), and TN (Total Nitrogen). You should also consider previous land uses at the site in answering this question.
   - **d.** If the answer to this question is no, then the site is not eligible for coverage under the CGP.

D. 1. See http://www.scdhec.gov/environment/water/navwater.htm for the definition of SCNW and other information related to SCNW. Or, contact S.C. DHEC Water Quality Certification, Standards & Wetlands Programs Section at (803) 898-4300 for assistance determining the navigability of the waters on your site or with questions related to SCNW.

a. List the name of the SCNW. If the SCNW is not named, then provide a description that references the nearest, named waterbody (e.g., tributary to Grove Creek).
b. Indicate whether any construction activities will cross or otherwise impact SCNW. This includes temporary and permanent crossings with roads, utility lines, etc.
c. Describe all of the activities that will cross SCNW (e.g., road crossing, utility line crossing).
d. See the following website for a list of DHEC General Permits for activities in some SCNW: http://www.scdhec.gov/environment/water/docs/gp/gp.xls. See the "Notes" column to determine what types of activities are covered under each permit.
e. If an SCNW permit has not already been applied for or issued for all of the activities in SCNW for this site, then those activities and conditions can be addressed during the review of the SWPPP, and a separate State Navigable Waters permit is not required. Provide an additional plan sheet that shows plan and profile views (drawn to scale) of the SCNW and associated activities; include a description of the proposed activities on this plan sheet.
f. List each permit number and the corresponding activities that are covered under each permit.

V. Operator Information

A. SWPPP is the Stormwater Pollution Prevention Plan. Enter N/A for the S.C. Registration # if the SWPPP preparer is not a registered professional in S.C. (Engineer, Tier B Surveyor, or Landscape Architect). For projects disturbing more than 2 acres, the SWPPP preparer must be one of the listed professionals or federal government employee as described in Title 40, Chapter 22. In the **SCCZ**, for projects that are located within ½ mile of a RWB, disturbing less than 2.0 acres and meeting the criteria of categories **a-e** (see **"SCCZ** Requirements" section above), the SWPPP preparer must be one of the listed professionals or federal government employee as described in Title 40, Chapter 22.

S.C. COA is S.C. Certificate of Authorization. See the following websites for information about COA requirements for Landscape Architecture firms (http://www.dnr.sc.gov/land/LandscArch/LAlicense.html) and Engineering and Surveying firms (http://www.llr.state.sc.us/POL/Engineers/) Enter N/A for S.C. COA if the firm is not required to have a COA. Enter the complete mailing address for the SWPPP Preparer. If an email address is listed, DHEC may contact the SWPPP Preparer via email.

B. See Appendix A of the CGP for the definition of "Operator". This can be the same entity as the Project Owner/ Operator. List the complete mailing address and daytime phone number and fax number for the ODSA. If there are multiple ODSAs, then attach additional sheets with all information in Section V.B of the NOI listed. If the ODSA is a company, then a person should be listed as the Site Contact. List the daytime phone number of the Site Contact. ODSAs must be co-permittees with the Project Owner/ Operator or have their own separate NPDES coverage under the CGP. If this section is left blank, the PO/O will be considered to be the ODSA.

VI. Certifications

DO NOT SIGN IN BLACK INK! The NOI submitted to DHEC must have original signatures for VI.A and VI.B.

A. The same registered professional must sign and seal the NOI form, SWPPP, calculations, and supporting documentation.
B. If the Project Owner/ Operator is a company, print the name of the person who is signing the NOI for the Project Owner/ Operator. A person with signatory authority for the Project Owner/ Operator must sign the application. The SWPPP Preparer cannot sign the application for the Project Owner/ Operator. The SWPPP, all reports, including monthly reports, and any information requested by DHEC must be signed by a person with signatory authority for the Project Owner/ Operator or a duly authorized representative. See below for a summary and §122.22 of S.C. Reg. 61-9 (Appendix C of the CGP) for complete information about signatory authority requirements.
   - Corporation: A responsible corporate officer (e.g., president, vice-president, certain managers)
   - Partnership or Sole Proprietorship: A general partner or the proprietor, respectively
   - Municipality, State, Federal or Other Public Agency: Principal executive officer or ranking elected official

Fee Schedules

Make sure to answer all applicable questions on the appropriate Fee Schedule. If you are completing the online fillable version of the NOI, the cursor should automatically move to the next question that needs to be answered until all applicable questions have been answered. On Fee Schedule B, as appropriate, you should answer question 2 or question 3. DO NOT ATTEMPT TO ANSWER BOTH QUESTIONS.

Office Mechanics and Filing

This form and supporting documentation will be kept in the Central Office files (hard copy or digitized copy) in accordance with the Retention Schedule.

Updated Instructions for DHEC 2617 (09/2007): Items IV.C.2 and IV.C.2.a-d

Please use the following instructions for item IV.C.2 and IV.C.2.a-d, instead of the instructions listed on DHEC 2617 (09/2007).

IV. Waterbody Information

C. Impaired Waterbodies

2. See the following website for a list of all WQMS with Approved S.C. Total Maximum Daily Loads (TMDLs): http://www.scdhec.gov/environment/water/tmdl/docs/tmdl_2008sites.pdf. To search this document to determine whether a WQMS is listed, select "Edit" from the top toolbar. Then, select "Find". Enter the WQMS exactly as listed on the map and hit enter. If none of the WQMS(s) are found, then select "No" for item IV.C.2 and proceed to item IV.D.1. If any of the WQMS(s) are found within the document, then select yes and proceed to item IV.C.2.a. The same document will be used for item IV.C.2.a.
   a. List the cause(s) of the impairment (see 7th column labeled "CAUSE") and proceed to item IV.C.2.b. If the WQMS(s) is impaired for more than one parameter, then the WQMS will be listed multiple times on successive rows. The same document will be used to answer item IV.C.2.b.
   b. See the 8th column labeled "USE SUPPORT" to determine if the standard has been attained for each impairment for each WQMS. "FULLY SUPPORTED" means the standard has been attained for the impairment listed in the "CAUSE" column. "NOT SUPPORTED" means that the standard has NOT been attained for that impairment. If the standard has NOT been attained for all impairments for all WQMS(s), then select no and proceed to item IV.C.2.c. If the standard has been attained for all impairments for all WQMS(s), select yes and proceed to item IV.D.
   c. DHEC has determined that construction SW discharges are expected to contain pollutants causing the following impairments: TURBIDITY, BIO (Macroinvertebrate), TP (Total Phosphorus), and TN (Total Nitrogen). You should carefully evaluate whether the site's constructions SW discharges will contain any pollutants causing other impairments, not explicitly listed above. You should also consider previous land uses at the site in answering this question.
   d. If the answer to this question is no, then the site is not eligible for coverage under the CGP.

Updated 04/15/2008

DEPARTMENT OF THE ARMY
CHARLESTON DISTRICT, CORPS OF ENGINEERS
69A Hagood Avenue
CHARLESTON, SOUTH CAROLINA 29403-5107

REPLY TO
ATTENTION OF

January 16, 2009

Regulatory Division

Mr. Asher Howell
Newkirk Environmental, Incorporated
Post Office Box 309
Bluffton, South Carolina 29910

Re: SAC 2008-1981-1JQ
Jasper County

Dear Mr. Howell:

This is in response to your letter of November 18, 2008, requesting a wetland determination, on behalf of Mr. D Lynch, for 18.41-acre tract located southeast of the intersection of Jasper Station Road (S-27-162) and S-27-141, in the Okatee area of Jasper County, South Carolina. The project area is depicted on the survey plat you submitted which was prepared by TG Stanley, signed: *10-30-08*, and entitled: *"This Plat Prepared At The Request Of / Jasper Station Associates, LLC / A Boundary Survey Of A 18.41 Acre Tract, / Being A Portion Of Tax Map #080-00-03-065, / Near Cherry Point, Jasper County, South Carolina"*. This site is a portion of a larger tract verified by this office in August, 2005, as reference # *SAC 81-2005-1981.*

Based on the August, 2005, on-site inspection and a review of aerial photography and soil survey information, it has been determined that the referenced property does not contain any wetland areas or other waters of the United States and, as such, Department of the Army authorization will not be required for mechanized land clearing, excavation, or the placement of dredged or fill material on this site.

Please be advised that this determination is valid for five (5) years from the date of this letter unless new information warrants revision of the delineation before the expiration date. All actions concerning this determination must be complete within this time frame, or an additional delineation must be conducted. For the purposes of 33 CFR 331.2, this is considered to be an approved jurisdictional determination.

In future correspondence concerning this matter, please refer to SAC 2008-1981-1JQ. A copy of this letter is being forwarded to the South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management for their information.

If you have any questions concerning this matter, please contact Paul Hinchcliff at 843-329-8044 or toll free at 1-866-329-8187.

Respectfully,

Charles R. Crosby
Chief, South Branch

EXHIBIT
tabbies 12.

JASPER STATION vs. DHEC
JASPER documents - 0169

Enclosure:
Basis for Jurisdiction

Copy Furnished:
South Carolina Department of Health
and Environmental Control
Office of OCRM
1362 McMillan Avenue, Suite 400
Charleston, South Carolina 29405

JASPER STATION vs. DHEC
JASPER documents - 0170

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. **REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): January 13, 2009**

B. **DISTRICT OFFICE, FILE NAME, AND NUMBER: SAC_Charleston / jasper_jasper station B / SAC 2008-2188-1JQ**

C. **PROJECT LOCATION AND BACKGROUND INFORMATION:**
State: SC County/parish/borough: Jasper City: Okatee
Center coordinates of site (lat/long in degree decimal format): Lat. 32.32850° N, Long. -80.93775° W.
Universal Transverse Mercator:
Name of nearest waterbody: Okatee River
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: n/a
Name of watershed or Hydrologic Unit Code (HUC): 03050208-090
☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc…) are associated with this action and are recorded on a different JD form.

D. **REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**
☒ Office (Desk) Determination. Date: 13jan09
☒ Field Determination. Date(s): aug05

SECTION II: SUMMARY OF FINDINGS

A. **RHA SECTION 10 DETERMINATION OF JURISDICTION.**

There Are no *"navigable waters of the U.S."* within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]
☐ Waters subject to the ebb and flow of the tide.
☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain:

B. **CWA SECTION 404 DETERMINATION OF JURISDICTION.**

There Are no *"waters of the U.S."* within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [*Required*]

1. **Waters of the U.S.**
   a. **Indicate presence of waters of U.S. in review area (check all that apply):** [1]
      ☐ TNWs, including territorial seas
      ☐ Wetlands adjacent to TNWs
      ☐ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
      ☐ Non-RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
      ☐ Impoundments of jurisdictional waters
      ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

   b. **Identify (estimate) size of waters of the U.S. in the review area:**
      Non-wetland waters: linear feet: width (ft) and/or acres.
      Wetlands: acres.

   c. **Limits (boundaries) of jurisdiction based on: Pick List**
      Elevation of established OHWM (if known):

2. **Non-regulated waters/wetlands (check if applicable):**[3]
   ☐ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
   Explain:

[1] Boxes checked below shall be supported by completing the appropriate sections in Section III below.
[2] For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
[3] Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. **TNW**
   Identify TNW:

   Summarize rationale supporting determination:

2. **Wetland adjacent to TNW**
   Summarize rationale supporting conclusion that wetland is "adjacent":

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody[4] is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. **Characteristics of non-TNWs that flow directly or indirectly into TNW**

   (i) **General Area Conditions:**
   Watershed size: **Pick List**
   Drainage area: **Pick List**
   Average annual rainfall: inches
   Average annual snowfall: inches

   (ii) **Physical Characteristics:**
   (a) Relationship with TNW:
   ☐ Tributary flows directly into TNW.
   ☐ Tributary flows through **Pick List** tributaries before entering TNW.

   Project waters are **Pick List** river miles from TNW.
   Project waters are **Pick List** river miles from RPW.
   Project waters are **Pick List** aerial (straight) miles from TNW.
   Project waters are **Pick List** aerial (straight) miles from RPW.
   Project waters cross or serve as state boundaries. Explain:

   Identify flow route to TNW[5]:
   Tributary stream order, if known:

[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
[5] Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

(b) General Tributary Characteristics (check all that apply):
Tributary is: ☐ Natural
☐ Artificial (man-made). Explain:
☐ Manipulated (man-altered). Explain:

Tributary properties with respect to top of bank (estimate):
Average width: feet
Average depth: feet
Average side slopes: **Pick List.**

Primary tributary substrate composition (check all that apply):
☐ Silts ☐ Sands ☐ Concrete
☐ Cobbles ☐ Gravel ☐ Muck
☐ Bedrock ☐ Vegetation. Type/% cover:
☐ Other. Explain:

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain:
Presence of run/riffle/pool complexes. Explain:
Tributary geometry: **Pick List**
Tributary gradient (approximate average slope): %

(c) Flow:
Tributary provides for: **Pick List**
Estimate average number of flow events in review area/year: **Pick List**
Describe flow regime:
Other information on duration and volume:

Surface flow is: **Pick List.** Characteristics:

Subsurface flow: **Pick List.** Explain findings:
☐ Dye (or other) test performed:

Tributary has (check all that apply):
☐ Bed and banks
☐ OHWM[6] (check all indicators that apply):
☐ clear, natural line impressed on the bank ☐ the presence of litter and debris
☐ changes in the character of soil ☐ destruction of terrestrial vegetation
☐ shelving ☐ the presence of wrack line
☐ vegetation matted down, bent, or absent ☐ sediment sorting
☐ leaf litter disturbed or washed away ☐ scour
☐ sediment deposition ☐ multiple observed or predicted flow events
☐ water staining ☐ abrupt change in plant community
☐ other (list):
☐ Discontinuous OHWM.[7] Explain:

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):
☐ High Tide Line indicated by: ☐ Mean High Water Mark indicated by:
☐ oil or scum line along shore objects ☐ survey to available datum;
☐ fine shell or debris deposits (foreshore) ☐ physical markings;
☐ physical markings/characteristics ☐ vegetation lines/changes in vegetation types.
☐ tidal gauges
☐ other (list):

(iii) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain:
Identify specific pollutants, if known:

[6]A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.
[7]Ibid.

(iv) **Biological Characteristics. Channel supports (check all that apply):**
- ☐ Riparian corridor. Characteristics (type, average width):
- ☐ Wetland fringe. Characteristics:
- ☐ Habitat for:
  - ☐ Federally Listed species. Explain findings:
  - ☐ Fish/spawn areas. Explain findings:
  - ☐ Other environmentally-sensitive species. Explain findings:
  - ☐ Aquatic/wildlife diversity. Explain findings:

2. **Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW**

(i) **Physical Characteristics:**

(a) General Wetland Characteristics:
Properties:
Wetland size: acres
Wetland type. Explain:
Wetland quality. Explain:
Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:
Flow is: **Pick List**. Explain:

Surface flow is: **Pick List**
Characteristics:

Subsurface flow: **Pick List**. Explain findings:
- ☐ Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:
- ☐ Directly abutting
- ☐ Not directly abutting
  - ☐ Discrete wetland hydrologic connection. Explain:
  - ☐ Ecological connection. Explain:
  - ☐ Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW
Project wetlands are **Pick List** river miles from TNW.
Project waters are **Pick List** aerial (straight) miles from TNW.
Flow is from: **Pick List**.
Estimate approximate location of wetland as within the **Pick List** floodplain.

(ii) **Chemical Characteristics:**
Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain:
Identify specific pollutants, if known:

(iii) **Biological Characteristics. Wetland supports (check all that apply):**
- ☐ Riparian buffer. Characteristics (type, average width):
- ☐ Vegetation type/percent cover. Explain:
- ☐ Habitat for:
  - ☐ Federally Listed species. Explain findings:
  - ☐ Fish/spawn areas. Explain findings:
  - ☐ Other environmentally-sensitive species. Explain findings:
  - ☐ Aquatic/wildlife diversity. Explain findings:

3. **Characteristics of all wetlands adjacent to the tributary (if any)**
All wetland(s) being considered in the cumulative analysis: **Pick List**
Approximately ( ) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)

Summarize overall biological, chemical and physical functions being performed:

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:

2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
   - ☐ TNWs: linear feet width (ft), Or, acres.
   - ☐ Wetlands adjacent to TNWs: acres.

2. **RPWs that flow directly or indirectly into TNWs.**
   - ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial:
   - ☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

Provide estimates for jurisdictional waters in the review area (check all that apply):
- ☐ Tributary waters: linear feet width (ft).
- ☐ Other non-wetland waters: acres.
  Identify type(s) of waters:

3. **Non-RPWs[8] that flow directly or indirectly into TNWs.**
   ☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional waters within the review area (check all that apply):
   - ☐ Tributary waters: linear feet width (ft).
   - ☐ Other non-wetland waters: acres.
     Identify type(s) of waters:

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**
   ☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
   - ☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:
   - ☐ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:

   Provide acreage estimates for jurisdictional wetlands in the review area: acres.

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**
   ☐ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.

   Provide acreage estimates for jurisdictional wetlands in the review area: acres.

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**
   ☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional wetlands in the review area: acres.

7. **Impoundments of jurisdictional waters.[9]**
   As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.
   - ☐ Demonstrate that impoundment was created from "waters of the U.S.," or
   - ☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
   - ☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):[10]
- ☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
- ☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- ☐ which are or could be used for industrial purposes by industries in interstate commerce.
- ☐ Interstate isolated waters. Explain:
- ☐ Other factors. Explain:

Identify water body and summarize rationale supporting determination:

---

[8] See Footnote # 3.
[9] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
[10] Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA *Memorandum Regarding CWA Act Jurisdiction Following Rapanos.*

Provide estimates for jurisdictional waters in the review area (check all that apply):
- ☐ Tributary waters: linear feet width (ft).
- ☐ Other non-wetland waters: acres.
  - Identify type(s) of waters:
- ☐ Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):
- ☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- ☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - ☐ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- ☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain:
- ☐ Other: (explain, if not covered above):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):
- ☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource:
- ☐ Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):
- ☐ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource:
- ☐ Wetlands: acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):
- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant:
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - ☒ Office concurs with data sheets/delineation report.
  - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps:
- ☐ Corps navigable waters' study:
- ☐ U.S. Geological Survey Hydrologic Atlas:
  - ☐ USGS NHD data.
  - ☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: SC/Jasper.
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Jasper74.
- ☒ National wetlands inventory map(s). Cite name:
- ☐ State/Local wetland inventory map(s):
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): SC99/11211:38.
  - or ☐ Other (Name & Date):
- ☒ Previous determination(s). File no. and date of response letter: SAC 81-2005-1981 / 08feb06.
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature:
- ☐ Other information (please specify):

B. ADDITIONAL COMMENTS TO SUPPORT JD: The 18.41-acre site is a part of a larger, coastal shrub/scrub commercial tract first verified by this office in 2005. Since that time, the the original tract has been subdivided and portions of an isolated, non-jurisdictional wetland on the current site have been filled per SC OCRM permit #27-06-08-01. As a result, the site no longer holds wetlands.

BUREAU OF WATER ENFORCEMENT REFERRAL FORM

TO: Robin Foy
Water Enforcement Division

FROM: Heather D. Kellerman
OCRM Enforcement Section

DATE: January 8, 2009

RE: **Enforcement Referral**

Type: Stormwater, NPDES Phase II GCP

Source: OCRM Enforcement Section

Facility Name: Jasper Station Tract
Permit #/ System #: (application denied) 27-06-08-01
County: Jasper

Owner: Daniel M. Lynch d/b/a Jasper Station, LLC
Daniel M. Lynch d/b/a Jasper Station Partners, LLC
Daniel M. Lynch
Site Address: SC Hwy 141 and Road S-27-162
Hardeeville, SC
(PID # 8000003065)

Responsible Party: Mr. Dan Lynch
Mailing Address: PO Box 448
Port Royal, SC 29935
Phone: (843) 263-9546

FACILITY TYPE:

NPDES Phase II CGP

VIOLATIONS:

Land disturbance without a permit.

EXHIBIT
B

COMPLAINTS: N/A

NOTICES OF VIOLATION (and responses)/ PREVIOUS ORDERS:(Central Office use.)
(Include dates issued, violations cited, and order compliance) *None noted in EFIS*

INSPECTION DATES (please include copies of inspection reports):
07/26/07, 02/14/08, 10/15/08, 10/23/08, 1/06/09

COMPLIANCE LETTERS/WARNING LETTERS:(Attach copies)
11/05/08 – October inspections attached.

OTHER CORRESPONDENCE/PHONE CALLS, ETC.:(Attach copies)
See attached referral for correspondence:
11/14/08 – Shahid (McNair Law Firm) to Hicks
11/7/08 – Internal referral
10/28/08 – Hicks to Shahid
10/1/08 – Hicks to Lynch
9/30/08 – Hicks to Snowden (City of Hardeeville)
9/30/08 – Hicks to Lynch (Denial of coverage under 2006 NPDES GCP)
9/30/08 – Thompson to Hicks (Memorandum)
9/30/08 – Inconsistency Determination (decision document, Hicks)
08/22/07 – Hicks to Shahid
07/12/07 – Shahid to Hicks
06/11/07 – Hicks to Stanley (Thomas & Hutton)
05/22/07 – Shahid to Boltin
02/20/07 – Neale to Shahid (e-mail)
12/07/06 – Meeting Roster
11/28/06 - NOI
11/06/06 – Shahid to Fersner
09/06/06 – Fersner to Stanley
08/21/06 – Fersner to Stanley
07/11/06 - NOI

COMPLIANCE EFFORTS/SUMMARY
(What have you/facility done to attempt to achieve compliance?)
See attached
OTHER AREAS/SECTIONS IN BUREAU OF WATER INVOLVED
(List Bureau, Division, Section): OCRM

ATTACHMENTS:
See Above
In addition, please find attached an attempt to verify the applicant's LLC and note to such.

REFERRED BY: Heather D. Kellerman **DATE:** 1/8/09

DIRECTOR'S APPROVAL [signature] **DATE:** 1/26/09

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Notice of Intent (NOI) for Stormwater Discharges from Large and Small Construction Activities, NPDES General Permit SCR100000

For official use only
File number: 27-02-03-02E
Permit number: SCR10 K658
Submittal package complete: 2/13/09
Public Notice Start Date (OCRM only): 2-2009

For official use only
SOUTH CAROLINA
DEPT OF HEALTH AND ENVIRONMENTAL CONTROL
ENVIRONMENTAL QUALITY CONTROL
STORMWATER PERMITTING SECTION
APPROVED - FOR CONSTRUCTION ONLY
DHEC PERMIT #: SCR10K658
FILE #: 27-02-03-02E
DATE ISSUED: 03/27/09
BY:

EXHIBIT 14

Submission of an NOI constitutes notice that the entity identified in Section I intends to be authorized under SCR100000. Instructions on page 5.

Date: 10/15/2009
Project/ Site Name: Red Oaks Plaza Phase 3 County: Jasper
Do you want this project to be considered for the Expedited Review Program (ERP)? ☐Yes ☒No (See instructions.)
If yes, is the design of this project above regulatory requirements or Low Impact Development? ☐Yes ☐No

I. **Project Information**
Project Owner/ Operator (Company or person): DTG HOLDINGS LLC
Company EIN: [redacted] Phone: 843-725-5700 Fax: 843-725-5777
Mailing Address: PO Box 21299 City: Hilton Head Island State: SC Zip: 29925
Permit Contact (if owner is company): Andy Smith Phone:
Mailing Address: PO Box 21299 City: Hilton Head Island State: SC Zip: 29925
Email address (optional):

II. **Property Information**
A. Site Location (street address, nearest intersection, etc.): Red Oaks Lane access from SC Hwy 170
City/ Town (if in limits): Hardeeville Latitude: 32 ° 19 ' 42 " N Longitude: -80 ° 56 ' 6 " W
Tax map # (list all): 080-00-03-065
B. Property Owner: Same as above Phone:
Mailing Address: City: State: Zip:

III. **Site Information**
A. Disturbed area (to the nearest tenth of an acre): 18.4 acres Total area: 18.4 acres
B. Is this project part of a Larger Common Plan for Development or Sale (LCP)? ☒Yes ☐No
LCP/ Overall Development Name: Red Oaks Plaza Phase 3 Check here if this is the first phase. ☐
Previous state permit/ file number: 27-02-03-02 Previous NPDES coverage number: SCR10 NA
C. Start Date (MM/DD/YYYY): 04/01/2009 Completion Date: 07/01/2009
D. Is this site located on Indian Lands? ☐Yes ☒No If yes, name of reservation.
E. Type of Activity (check one):
☒ Commercial ☐ Industrial
☐ Institutional ☐ Residential: Single-family ☐ Multi-use (Commercial & Residential) ☐ Other:
☐ Linear ☐ Residential: Multi-family ☐ Site Preparation (No new impervious)
F. Are there any flooding problems downstream of or adjacent to this site? ☐Yes ☒No
G. Has S.C. DHEC issued a Notice to Comply or Notice of Violation for this site or LCP? ☐Yes ☒No
H. Is any part of the property located inside an MS4 or urbanized area? ☐Yes ☒No
If yes, list the MS4 operator or urbanized area name.
I. List all state and federal environmental permits or approvals applied for or obtained for this site (e.g., RCRA).

IV. **Waterbody Information**
A. Nearest receiving waterbody(s) (RWB): Okatie River Distance to nearest RWB (feet): 4,500
Classification of nearest RWB: ORW Next/Nearest named RWB: Colleton River

B. 1. Waters of the U.S./ State	On the site?	Delineated/ Identified?	Impacts?	Amount of impacts
a. Jurisdictional wetlands	☐Yes ☒No	☐Yes ☐No	☐Yes ☐No	___ Ac
b. Non-jurisdictional wetlands	☐Yes ☒No	☐Yes ☐No	☐Yes ☐No	___ Ac
c. Other Water(s) List:	☐Yes ☒No	☐Yes ☐No	☐Yes ☐No	___ Ac ___ Feet

2. If yes for impacts in B.1, describe each impact and activity, and list all permits (e.g., USACOE Nationwide permit, DHEC General Permit) and certifications that have been applied for or obtained for each impact.

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C. Impaired Waterbodies (See instructions.)
List the nearest DHEC water quality monitoring station(s) [WQMS(s)] to which construction stormwater (SW) discharges will drain and the corresponding waterbody(s). 18-17 Waterbody(s): Chechessee Creek

1. Is this WQMS(s) listed on the most current 303(d) List for Impaired Waters? ☐Yes ☒No
   a. If yes for 1, list the impairment(s).
   b. If yes for 1, will the site's construction SW discharges contain any pollutant(s) causing the impairment(s)? ☐Yes ☐No
   c. If yes for b, list the impairment(s) affected by the pollutant(s) referenced in b.
   d. If yes for b, will use of the proposed BMPs ensure that the site's discharges will not contribute to or cause further water quality standard violations for the impairment(s) listed in c? ☐Yes ☐No
2. Has a TMDL(s) been developed for this WQMS(s)? ☐Yes ☒No
   a. If yes for 2, list the impairment(s).
   b. If yes for 2, has the standard been attained for all impairment(s)? ☐Yes ☐No
   c. If no for b, will the site's construction SW discharges contain any pollutant(s) causing the impairment(s)? ☐Yes ☐No
   d. If yes for c, are your discharges consistent with the assumptions and requirements of the TMDL(s)? ☐Yes ☐No

D. 1. Are S.C. Navigable Waters (SCNW) on the site? ☐Yes ☒No
   a. If yes for 1, list the name of the SCNW:
   b. If yes for 1, will any construction activities cross over or occur in, under, or through the SCNW? ☐Yes ☐No
   c. If yes for b, then describe activities.
   d. If yes for b, are the activities in SCNW covered under a DHEC General Permit or other DHEC permit? ☐Yes ☐No
   e. If no for d, has an SCNW permit been applied for or issued for the site? ☐Yes, for all activities ☐Yes, for some activities ☐No
   f. If yes for d or e, list permit number(s) and corresponding activities.

V. Operator Information

A. SWPPP Preparer: Ryan M. Smith S.C. Registration #: 24757
Company/ Firm: Thomas & Hutton Engineering Company S.C. COA #: 00285
Mailing Address: 50 Park of Commerce Way City: Savannah State: GA Zip: 31402
Phone: (Day) 912-234-5300 (Mobile) (Fax) 912-234-2950
Email address (optional):

B. Operator of Day-to-Day Site Activities [ODSA] (Company or person): Andy Smith
Mailing Address: PO BOX 21299 City: Hilton Head Island State: SC Zip: 29925
Phone: 843-379-5700 Fax: 843-379-5777
Site Contact (if ODSA is company): Phone:

VI. Signatures and Certifications: DO NOT SIGN IN BLACK INK!

A. One copy of the SWPPP, all specifications and supporting calculations, forms, and reports are herewith submitted and made a part of this application. I have placed my signature and seal on the design documents submitted signifying that I accept responsibility for the design of the system. Further, I certify to the best of my knowledge and belief that the design is consistent with the requirements of Title 48, Chapter 14 of the Code of Laws of SC, 1976 as amended, pursuant to Regulation 72-300 et seq., and in accordance with the terms and conditions of SCR100000. (This should be person identified in Section V.A.)

Check one. ☒Engineer ☐Tier B Surveyor ☐Landscape Architect

Ryan M. Smith		24757
Printed name of SWPPP Preparer	**Signature of SWPPP Preparer**	**S.C. Registration #**

B. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

I hereby certify that all land-disturbing construction and associated activity pertaining to this site shall be accomplished pursuant to and in keeping with the terms and conditions of the approved plans and SCR100000. I also certify that a responsible person will be assigned to the project for day-to-day control. I hereby grant authorization to the to S.C. Department of Health and Environmental Control (DHEC) and/or the local implementing agency the right of access to the site at all times for the purpose of on site inspections during the course of construction and to perform maintenance inspections following the completion of the land-disturbing activity. (See Section 122.22 of S.C. Reg. 61-9 for signatory authority information.)

Gregg Malphrus	Manager	2-5-09
Printed name of Project Owner/Operator	**Signature of Project Owner/ Operator**	**Date**

Red Oaks Plaza Phase 3 CK 2/10/09

SCDHEC – Ocean & Coastal Resource Management
NPDES Phase II Construction General Permit and Coastal Zone Consistency Certification
Public Notice Requirements – Updated 09/22/2008

In order for Notice of Intent applications and water supply/wastewater certification requests to be placed on public notice as part of the Coastal Zone Consistency determination review process, OCRM will need the following items at a minimum:

1. ✓ Completed and signed (with all original signatures) Notice of Intent (NOI) for Stormwater Discharges from Large and Small Construction Activities, NPDES General Permit SCR100000 (DHEC Form 2617 rev.9/2007)

2. ✓ Check for the correct amount. The acreage of disturbance should be rounded off to the nearest tenth.

   a) If a project **IS NOT** within a half-mile of a receiving waterbody...Projects disturbing **one (1) acre and greater**: $100 per disturbed acre (and/or a fraction thereof) review fee applies, not to exceed $2000. The $100 per disturbed acre review fee also applies for all phases and parts of larger common plans for development. An additional NPDES Construction General Permit fee of $125 applies to each project or additional phases to a previously permitted project.

   b) If a project **IS** within a half-mile of a receiving waterbody...Projects disturbing **greater than one-half acre (1/2)**: $100 per disturbed acre (and/or a fraction thereof) review fee applies, not to exceed $2000. The $100 per disturbed acre review fee also applies for all phases and parts of larger common plans for development. An additional NPDES Construction General Permit fee of $125 applies to each project or additional phases to a previously permitted project.

   Maximum project review fee is $2125.

3. N/A Freshwater wetlands must be identified and delineated on construction drawings. Freshwater wetlands should be specified as to their jurisdiction, whether Federally jurisdictional or non-jurisdictional.

   If Federally non-jurisdictional freshwater wetlands are being impacted, a wetland impact statement must be completed along with an 8.5 x 11 inch map indicating the wetland acreages, amount and type of impacts. A USGS topographic map should also be submitted indicating the location of the project. See impact statement below:

   "This project is proposed to impact (give number of acres) acres of Federally non-jurisdictional wetlands. These proposed impacts require approval under the SCCZM program. This plan will (fill, excavate, otherwise impact) (give individual wetland size by acres) for a total impact of (total acreage)."

   Saltwater wetlands/critical area (ca) must be delineated and identified on construction drawings. A valid, DHEC-OCRM approved saltwater/ca wetland line is necessary if wetland impacts are proposed as part of the project. Note: A copy of a line delineation approval request or ca permit application as submitted to OCRM Wetlands Section can be provided in lieu of a plat depicting an approved, valid line for public notice. The approved plat is necessary for final project approval.

EXHIBIT 15. tabbies

4. ✓ 2/13/09 If a project is more than one-half (1/2) acre in size and is within a half-mile of a receiving waterbody **OR** if the project is one (1) or more acres in size not within a half-mile of a receiving waterbody, a digital project boundary must be submitted. Stormwater permit coordinators must have confirmation of a correct digital boundary from the OCRM GIS department prior to public notice. **Please identify the digital boundary submittal with the same project name that is provided on the land disturbance application.**

5. ✓ One (1) copy of the engineering report signed, sealed and dated by the SWPPP Preparer. Include a project narrative and drainage, water quality and sediment trapping efficiency calculations (if applicable).

6. ✓ One (1) set of design plans with engineer's seal, signature, and corresponding date on each page.

7. N/A Water and Wastewater Certification requests if applicable.

8. ✓ Project narrative including existing and proposed conditions/uses. Provide further explanation if the project is part of a larger common plan of development. If the project is part of a master drainage plan, a copy of that portion of the drainage plan, including how the current project fits into the master plan and the corresponding calculations, must accompany the application.

9. ✓ Completed Stormwater Management and Sediment and Erosion Control Plan Review Checklist for Design Professionals and all items checked as applicable.

If an application package does not contain all of the necessary items, it is up the department's discretion to return the incomplete application package to the respective engineer or consulting firm, or have it available for pickup at the respective DHEC-OCRM receptionist's desk.

Stormwater Management and Sediment and Erosion Control Plan Review Checklist For Design Professionals

Please indicate the location and page number(s) where each item below can be found in your SWPPP or supporting calculations. If an item is not applicable, put N/A. The Department reserves the right to modify this checklist at any time. The Coastal Zone consists of the following counties: Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper.

Checklist Completed by:
Printed name: Darrell Callaway Signature: DSC Date: 02-06-2009

1. **CURRENT COMPLETED APPLICATION FORM** Included
   - Original signatures
   - Signatory authority
   - All items completed and answered
   - Fee Schedule
   - *Note: State and local government projects are not exempt from the plan review fee of $100 per disturbed acre.*
2. **COPIES OF PLANS AND CALCULATIONS** Attached
   - Plans stapled together!
   - For projects that disturb more than 2 acres, less than or equal to 2 acres but are part of a larger common plan of development or sale (LCP), or more than 0.5 acre and within ½ mile of a receiving waterbody (RWB) in the Coastal Zone, ONE set of plans and supporting documentation (report, calculations, maps, etc.)
   - For projects that disturb less than or equal to 2 acres (not part of LCP and not within ½ mile of RWB in the Coastal Zone), THREE sets of plans and one set of supporting documentation [*Note: You may submit up to 2 additional sets of plans to be stamped for approval.*]
   - Supporting documentation tabbed (e.g., Maps, Pre-Development calculations) and pages numbered [no loose pages]

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3. **LOCATION MAP** Storm Report
   - North arrow and scale
   - Outlined project location
   - Labeled road names
4. **PROJECT NARRATIVE** Storm Report
   - Scope of project outlined, including a brief description of pre- and post-development conditions
   - Summary table of pre- and post-development flows (at least 2- and 10-year, 24-hour storm events)
   - Existing flooding problems in the surrounding area described
   - Disturbed area calculations included for subdivision projects or LCP disturbing 1 or more acres
     - For subdivisions if the site is not to be mass-graded, the following formula should be used to determine the amount of disturbance:

       Amount of Disturbance = 2[Max Restricted Building Size][Number of Lots] + Right of Way (ROW) areas (ROW areas include clearing for roads, utilities, easements etc.)

     - If this equation is used, include a note on the **plans** stating: "The site is not to be mass-graded. Only 2 times the footprint is to be cleared as the lots are developed. The assumed disturbance on each lot is ____ sq. ft."
5. **USGS TOPOGRAPHIC MAP** Storm Report
   - Project boundary outlined
   - Route of runoff from site to nearest waterbody shown
   - Road names adjacent to site labeled
6. **SOILS INFORMATION** Storm Report
   - Project boundary outlined
   - Predominate soil types found at the site identified on the plans or on a separate map
   - *Note: Soils information is available from the Natural Resource Conservation Service through their website: http://websoilsurvey.nrcs.usda.gov/app/*
7. **FLOODWAY MAPS/FEMA FLOOD INSURANCE MAP** Included
   - Project boundary outlined, if in close proximity to floodplain/ floodway
   - *Note: The Department does not regulate the placement of fill in floodplains. Please see your local city or county official.*

8. **WATERS OF THE STATE, INCLUDING WETLANDS** N/A
   - Delineation of all waters of the State (WoS), including wetlands, shown and labeled on plans (delineation not required if a 100-ft undisturbed buffer can be maintained between the WoS and all land-disturbing activities)
   - Additional, separate plan sheet that shows all WoS on the site and the impacted areas with a description of the activity(s), whether it is permanent or temporary, and any other relevant information.
   - If impacts to WoS, outlined areas of impacts and labeled that no work can begin in this area until all necessary USACOE permits and SCDHEC 401 certifications have been obtained.
   - Double row of silt fence provided in all areas where a 50' undisturbed buffer cannot be maintained between the disturbed area and the WoS
   - Minimum 10' maintenance buffer provided between last row of silt fence and WoS; or, if buffer not provided, then statement from P.E. on plans indicating how silt fence will be installed and maintained without impacts to WoS
   - *Note: If there are proposed impacts to WoS, then it is advised that you contact USACOE (866-329-8187) and/ or S.C. DHEC Water Quality Certification, Standards & Wetlands Programs Section (803-898-4300) to determine additional requirements before submitting the Notice of Intent (NOI).*
   - *Note: If WoS are to be impacted, work cannot be performed in these designated areas until all necessary permits have been acquired*
   - *Note: If a USACOE permit is required for construction of or access to a temporary or permanent stormwater management structure, NPDES permit coverage cannot be granted until the USACOE permits and S.C. DHEC 401 Section certifications are obtained.*
   - *Note: The Department recommends a minimum 20-foot buffer between a sediment trap/basin and WoS.*

9. **HYDROLOGIC ANALYIS** Included - Report
   - Pre- and post-developed hydrologic analysis calculations for the 2- and 10-year, 24-hour storm events at each outfall point
   - Drainage area maps that clearly correspond to the calculations (pre- and post-development)
   - Analysis points for comparing runoff rates and the total drainage area analyzed do not change from pre- to post-development, although the immediate drainage areas contributing to each analysis point might shift
   - Post-development discharges less than pre-development discharges for each outfall point (if not, then see "Detention Waiver" section below)
   - Analysis performed using SCS 24-hour storm (Rational method is not acceptable)
   - Rainfall data from South Carolina DHEC Storm Water Management BMP Handbook (BMP Handbook) used in all calculations
   - *Note: The curve number for open water, marshes, etc. should be 98 to 100.*

10. **DETENTION ANALYSIS/DESIGN** Included - Report
   - **Analysis**
     - Pond routing using a volume-based hydrograph for the 2- and 10-year, SCS 24-hour storm event (Drain:Edge, ICPR, HEC-1, SedCAD, HYDRAFLOW, etc. perform full pond routings; TR55 does not perform a full pond routing; rational method cannot be used)
     - Hydrologic and hydraulic calculations necessary to determine the impact of hydrograph timing modifications of the proposed land-disturbing activity, with and without the detention structure (results of analysis will determine the need to modify the detention design or eliminate the detention requirement—see note 2 below)
     - Inputs and outputs from analysis program
     - Summary table of the peak inflows, peak outflows, discharge velocities, and maximum water surface elevations (WSE) for the 2- and 10-year, 24-hour storm events for each detention structure
     - Stage-storage-discharge relationship for the outlet structure of each detention structure
     - If a rating curve for the outlet structure must be generated externally from the analysis program (Drain:Edge, HEC-1, etc.). data and equations used to rate the outlet structure
     - As-built of existing detention pond if the site drains to an existing detention pond (see below)
     - *Note: SedCAD users please refer to the memo regarding the input of outlet structures.*
     - *Note: The Department recommends using the 10% rule in performing analysis. The hydrologic analysis should be conducted for the larger drainage area, where the site in question encompasses 10% of the total drainage area. For example, if your site is 10 acres, then the hydrologic analysis should be performed at the point downstream where the contributing drainage area, including your 10-acre site, is approximately 100 acres.*
   - **Design**
     - Detail of outlet structure and cross-section of the dam/ berm or pond bank, including elevations and dimensions that correspond to the calculations
     - Orifice constructability considered (do not specify orifice diameters with increments of less than ¼")

- Maximum WSE for the 10-year storm event below the emergency spillway with 0.5-ft of freeboard between maximum WSE for the 10-year storm and the emergency spillway
- Maximum WSE for the 100-year storm event below the embankment with 0.5-ft of freeboard between maximum WSE for the 100-year storm and the embankment
- Dewatering time calculations for the 10-year storm event (dry ponds must drain completely within 72 hours)
- Bottom of all detention and retention ponds graded to have a slope of not less than 0.5%
- If the pond is to be used for sediment control during construction, temporary horseshoe-shaped riprap berm in front of any low level outlets provided during construction and shown on the pond detail
- Permanent maintenance access to all permanent detention structures (easements may be needed for structures surrounded by lots)
- Infiltration systems designed in accordance with S.C. Reg. 72-307.C(11) [specify how items a-j have been addressed]
- *Note: Emergency spillways should not be built on fill slopes.*
- *Note: The Department recommends installation of a trash rack or other debris-screening device on all pond risers.*
- *Note: The Department recommends a maximum slope of 3:1 on pond embankments to allow for ease of maintenance.*
- *Note: The Department recommends installation of sediment forebays at each outfall into the detention/ sediment basin.*

11. AS-BUILTS N/A

- Provided for all previously approved detention ponds that will receive flows from new drainage areas
- Prepared by a South Carolina Licensed Land Surveyor
- Grades/ contours/ depths for pond
- Elevations and dimensions of all outlet structures, including:
  - Pipe and orifice inverts and diameters
  - Weir elevations and dimensions
  - Riser dimensions and elevations
  - Emergency spillway dimensions and elevations
  - Locations and inverts for all pipes discharging into the pond
- If the elevations or dimensions of the structures listed above do not match those used in the approved plans, certification statement signed by the project's Registered Engineer indicating that the pond, as built, will function within all applicable standards provided [new analysis of the pond (routing) may be necessary]
- For projects located in the eight coastal counties: For any construction project permitted after September 1, 2006, as-built/record drawings will be required by DHEC-OCRM prior to stormwater permit closeout. Prior to the contractor requesting a final site inspection, one as-built drawing hard copy and 1 digital (scanned plan sheets as .tif or .pdf document) copy must be provided to OCRM staff.
- *Note: As-built survey and /or analysis must be submitted and accepted by the Department before Notice of Termination (NOT) is submitted.*

12. PERMANENT STORMWATER MANAGEMENT STRUCTURE MAINTENANCE Included

- Signed agreement from the responsible party accepting ownership and maintenance of the structure
- Description of maintenance plan to be used
- Schedule of maintenance procedures (e.g., every 6 months)
- Detailed or manufacturer-specific maintenance items for proprietary control devices (oil-water separators, etc.), underground detention structures, exfiltration systems and non-traditional stormwater controls (constructed wetlands, bioretention, etc.)
- Typical maintenance items to be addressed
  - Grass to be mowed
  - Trees to be removed from within the pond and on the embankment
  - Trash and sediment to be removed from inside of and around the pond outlet structure
  - Orifices to be cleaned and unclogged
  - Outlet pipe to be cleaned, inspected, and repaired
  - Sediment accumulation to be removed from pond
  - Pond bottom to be regraded to provide proper drainage towards the outlet discharge point
  - Energy dissipator to be cleaned and repaired
  - Emergency spillway, if applicable, to be inspected and repaired
  - Erosion on side slopes, if present, to be addressed
  - The Department must be notified in writing of any changes in maintenance responsibility for the stormwater devices at the site (include this statement in agreement).

- *Note: The Department recommends that the county, city, or other governing utility, which has the authority to accept the ownership and maintenance of a storm drainage system also accept the permanent stormwater management structure.*
- *Note: If the entity or person with maintenance responsibility changes, then a new maintenance agreement, signed by the new person responsible for maintenance, must be provided to the Department. If a new, signed maintenance agreement is not provided to the Department, then the entity/ person who signed the most recent maintenance agreement on file with the Department will be considered the responsible entity.*

13. DISCHARGE POINTS Plans
- Storm drainage or pond outfalls carried to an existing drainage outfall such as a pipe, ditch, etc.
- No new point discharges onto adjacent property where there was not a point discharge previously, unless written permission from the adjacent property owner is provided
- Level spreaders, plunge pools, etc. provided when the proposed outlet is near the property line and not directed to an existing outfall, such as a creek or ditch
- Twenty (20)-foot minimum buffer is provided between the property line and the discharge point
- Outlets shall not discharge on fill slopes

14. DETENTION WAIVER NA
- *Note. If the 2- and 10-year, 24-hour post-developed flow rates exceed the pre-developed rates, waivers from detention may be granted in accordance with regulation 72-302(B) on a case-by-case basis*
- Justification and a written request, including the following statement: "*the increased flows will not have a significant adverse impact on the downstream/adjacent properties*"
- A project may be eligible for a waiver or variance of stormwater management for water quantity control if the applicant can demonstrate that:
  - The proposed project will have no significant adverse impact on the receiving natural waterway or downstream properties; or
  - The imposition of peak control requirements for rates of stormwater runoff would aggravate downstream flooding
- Waiver signed by the project's Professional Engineer
- *Note: See note in checklist item 10 regarding the 10% rule.*

15. PERMANENT WATER QUALITY REQUIREMENTS Storm Report
- Permanent water quality addressed (all projects or LCP that disturb 5 or more acres):
  - Wet ponds designed to catch the first ½" of runoff from the entire area draining to the pond and release it over at least a 24-hour period
  - Dry ponds designed to catch the first 1" of runoff from the entire area draining to the pond and release it over at least a 24-hour period
  - For areas not draining to a pond, show how permanent water quality requirements were addressed
- Projects disturbing less than five (5) acres but within one-half (1/2) mile of a receiving water body in the Coastal Zone must meet Section III.C.3.XIII.A of the Coastal Zone Management Program Refinements. Designs must show that the first ½ inch of runoff from the entire site or the first one (1) inch of runoff from the built upon area, whichever is greater, can be stored onsite.
- Waters of the U.S./State are not used for permanent water quality control (alternative means of treatment must be used if an existing pond is to be used for water quantity control).
- *Note: Other non-traditional stormwater controls such as Bioretention areas, constructed wetlands, etc. may be used. Consult the BMP Handbook for information on the design of these devices.*
- *Note: Pre-fabricated or proprietary treatment devices are approved on a case-by-case basis if adequate removal efficiency can be demonstrated. Provide pollutant removal efficiency data, preferably from a third-party testing company. Type of system selected should be based on the ability to remove the pollutants of concern in that area/situation (bacteria, hydrocarbons, etc.).*

16. SEDIMENTOLOGY Storm Report
- Trapping efficiency calculations showing that all sediment basins/ traps are capable of achieving a sediment trapping efficiency of at least 80% for the 10-year, 24-hour storm event, if more than 10 disturbed acres drain to a common point (stream, lake, etc.)
- Sediment basins provide storage for the 10-year, 24-hour storm event for disturbed conditions or 3600 ft^3/ acre draining to the basin, if more than 10 disturbed acres drain to a common point (stream, lake, property line, etc.)
- Sediment traps only used for drainage areas of less than 5 acres
- Sediment trap storage calculations, showing that 1800 ft^3/ total acre draining to each trap is provided below the spillway
- If trapping efficiency calculations are required for sediment traps, then provide peak outflow, q_{po}, calculations; the 10-year, 24-hour storm event for construction conditions cannot overtop the trap's spillway

- Sediment basins and traps designed for total area draining to them
- Drainage area map outlining the area draining to each basin/ trap
- Copies of figures used to determine V_{15} (SV-1) and trapping efficiency (ST-1, SB-1, SB-2), if Design Aids from BMP manual are used to determine trapping efficiencies
- Silt fence only used in areas with drainage areas of less than ¼ acre per 100 LF of fence and not used in areas with concentrated flows
- Clean-out stake, marked at ½ the designed sediment storage depth, provided in all sediment basins/ sediment traps
- *Note: Consult the BMP Handbook for information on the design of these and other devices.*
- *Note: The Design Aids in the BMP Handbook cannot be used to determine trapping efficiencies for structures in series. If the flow for the10-year, 24-hour storm for construction conditions overtops the structure or the structure's spillway, then the Design Aids cannot be used. If multiple soil types are in the area draining to the structure, then the soil type with the smallest D_{15} for the appropriate depth should be used to determine the settling velocity, V_{15}; an average D_{15} should not be used.*
- *Note: SedCAD users please refer to the memo regarding the input of outlet structures.*

17. **STABLE CHANNEL CALCULATIONS** N/A
- All channels and diversion ditches able to handle the 10-year storm event with non-erosive velocities of less than 5 feet per second during construction (use appropriate CN for disturbed areas) and post-construction (if velocity exceeds 5 ft/s, then permanent measures to reduce the velocity to a non-erosive rate must be provided)
- Rock check dams provided in temporary diversions
- Installation detail for erosion control blanket (ECB) or turf reinforcement matting (TRM) if ECBs or TRMs to be used

18. **INLET PROTECTION** Plans
- Provided at all inlets
- Hay bales not used
- Steel posts and buried fabric shown for filter fabric inlet protection
- Inlet protection details provided for pre-paving and after roadways have been paved
- *Note: The Department recommends that an inlet not have more than one (1) acre draining to it.*

19. **ENERGY DISSIPATORS/ OUTLET PROTECTION** Plans
- All outlets stabilized
- Riprap aprons sized appropriately
- Riprap detail shows apron dimensions and stone sizes for each pad or each pipe diameter
- Filter fabric installed beneath all riprap

20. **FILL SLOPES AND/ OR EMBANKMENTS**
- All slopes stabilized
- Slope drains designed in accordance with the BMP Handbook
- Slope drains provided where concentrated flows discharge onto a fill slope
- For all slopes steeper than 1.5:1, identification of stabilization practice (e.g., ECB, TRM)
- *Note: Measures, in addition to grassing or hydroseeding, include synthetic or vegetative matting, diversion berms, temporary slope drains, etc.*
- *Note: If retaining walls or fill slopes are to be constructed at the downstream property line, the Department recommends a 10' buffer to allow for construction and maintenance. If a 10' buffer is not provided, then provide permission from the adjacent property owner for possible land-disturbing activities on his property.*

21. **UTILITY LINES** N/A
- Limits of disturbance include areas disturbed for water and sewer line installation
- Inlet protection provided at all existing inlets that receive flows from the disturbed areas; also add this as a note on the plans
- For all utility lines crossing WoS, narrative and detail showing sediment and erosion control measures provided on plans
- Note for construction entrances to be provided at all locations where construction traffic accesses a paved roadway

22. **TMDL/ 303d IMPAIRED WATERBODIES**
- List the nearest S.C.DHEC Water Quality Monitoring Station (WQMS) that the site's stormwater discharges drain to and the waterbody on which it is located: 18-17 Checkessee Creek

- Qualitative and quantitative assessment (described in Section 3.4C of SCR100000), if nearest WQMS listed on the 2004 303(d) List of Impaired Waters **and** if site's stormwater construction discharges contain the pollutant of impairment **and** if site disturbs 25 or more acres
- Evaluation of selected BMPs if nearest WQMS listed on the 2004 303(d) List of Impaired Waters **and** if site's stormwater construction discharges contain the pollutant of impairment **and** if site disturbs less than 25 acres
- If Approved TMDL developed for nearest WQMS **and** if site's stormwater construction discharges contain the pollutant of impairment, showed that measures and controls on SWPPP met assumptions and requirements of TMDL (may need to contact Watershed Manager for assistance)
- *Note: Contact Department staff for guidance on selection of BMPs based on pollutant of impairment.*

23. **NAVIGABLE WATERS** N/A
    - Extra plan sheet showing impacts to navigable water and description of activity included if S.C. Navigable Waters (SCNW) crossing and separate SCNW permit has not been obtained for all activities
    - *Note: For NOIs initially submitted to delegated entities, if project has SCNW crossing and if separate SCNW permit has not been obtained for this crossing, then this item will be reviewed by S.C. DHEC before NPDES coverage will be granted.*

24. **OCRM REQUIREMENTS**
    - *Note: The following items only apply to those projects in the eight coastal counties.*
    - If a project is within a half-mile of a receiving water body (RWB) or is one (1) or more acre in size, a digital project boundary must be submitted and approved by the OCRM GIS department. If OCRM's review of the project location indicates potential impacts to Coastal Resources on projects disturbing less than or equal to 0.5 acre but within ½ mile of a RWB, then OCRM staff will notify the applicant to submit an NOI. For projects which will disturb more than 0.5 acre and are located within ½ mile of a RWB, the NOI and other pertinent information must be submitted with the digital boundary. Please include the completed digital submittal form along with the electronic boundary. Go to http://www.scdhec.gov/environment/ocrm/permit/stormwater.htm for instructions.
    - Any freshwater wetlands on the site must be identified and verified by the US Army Corps of Engineers (USACOE). A Corps wetland verification letter and corresponding signed, sealed and dated wetland plat must accompany the application package. The dates on the plat and verification letter must correspond. The Corp verification letter must reference the plat as an "accurate depiction" and not preliminary or approximation. The plat needs to identify whether or not the wetlands are jurisdictional or non-jurisdictional. Include USACOE permit number on the permit application if applicable.

      If non-jurisdictional wetlands are being impacted, a wetland impact statement as shown below must be completed along with an 8.5 x 11 inch map indicating the wetland acreages, amount and type of impacts. A USGS topographic map should also be submitted indicating the location of the project.

      "This project is proposed to impact 0 acres of Federally non-jurisdictional freshwater wetlands. These proposed impacts require approval under the SCCZM program. This plan will (fill, excavate, otherwise impact) (give individual wetland size by acres) for a total impact of (total acreage). Mitigation will be provided for these proposed impacts by (describe mitigation, giving acreages of preserved wetlands and/or buffers/credits)." If no mitigation is proposed, the notice needs to state as such.
    - If saltwater/critical areas are located on the site, an OCRM approved delineation and plat must be included with the submittal package.
    - If the proposed project is adjacent to saltwater/critical areas then a dock master plan will need to be submitted (if applicable) with the permit application package.
    - Water and Sewer Certification requests if applicable.
    - See item #15, 4th bullet of this checklist for additional water quality requirements in the Coastal Zone.

25. **SITE PLANS CHECKLIST:**
    - *Note: The Department may require phased sediment and erosion control plans for large or complicated projects.*
    - Location map with site outlined on first plan sheet (map should have enough detail to identify Surface Waters of the State within 1 mile of the site)
    - North arrow and scale
    - Property lines and adjacent landowners' names
    - Legend
    - Registered engineer's signed and dated seal

- Engineering Firm's Certificate of Authorization seal
- Existing and proposed contours for entire disturbed area
- Limits of disturbed area
- Locations of off-site material, waste, borrow, or construction equipment storage areas, excluding roll-off containers (*Note: Some off-site disturbed areas may require a separate application for NPDES coverage*)
- Location and identification of any stormwater discharges associated with industrial activity (not construction)
- Delineation of WoS, including wetlands (see checklist item 8)
- Easements
- Road profiles with existing and proposed ground elevations (if no contours are shown on the plans)
- Grassing and stabilization specifications (temporary and permanent)
- Construction sequence (implementation of all stormwater and sediment controls in the first phase of construction; ensure that basins, traps, ponds, etc. can be installed before the area draining to them is cleared and grubbed)
- Standard notes (see following page)
- Temporary and permanent control measures (provide details of all sediment and erosion control measures used; make sure the label or legend on the plans matches the name on the detail)

Note: Maintenance requirements for each BMP should be listed on the detail.

Note: If details from the BMP Handbook are used, then the inspection frequency must be changed to be in accordance with the new CGP (see Standard note 3).

Standard Notes

1. If necessary, slopes, which exceed eight (8) vertical feet should be stabilized with synthetic or vegetative mats, in addition to hydroseeding. It may be necessary to install temporary slope drains during construction. Temporary berms may be needed until the slope is brought to grade.
2. Stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than fourteen (14) days after work has ceased, except as stated below.
   - Where stabilization by the 14th day is precluded by snow cover or frozen ground conditions stabilization measures must be initiated as soon as practicable.
   - Where construction activity on a portion of the Site is temporarily ceased, and earth-disturbing activities will be resumed within 14 days, temporary stabilization measures do not have to be initiated on that portion of the Site.
3. All sediment and erosion control devices shall be inspected every seven (7) days. If site inspections identify BMPs that are damaged or are not operating effectively, maintenance must be performed as soon as practical or as reasonably possible and before the next storm event whenever practicable.

   OR

   All sediment and erosion control devices shall be inspected at least once every fourteen (14) calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater. If site inspections identify BMPs that are damaged or are not operating effectively, maintenance must be performed as soon as practical or as reasonably possible and before the next storm event whenever practicable.
4. Provide silt fence and/or other control devices, as may be required, to control soil erosion during utility construction. All disturbed areas shall be cleaned, graded, and stabilized with grassing immediately after the utility installation. Fill, cover, and temporary seeding at the end of each day are recommended. If water is encountered while trenching, the water should be filtered to remove any sediments before being pumped back into any waters of the State.
5. All erosion control devices shall be properly maintained during all phases of construction until the completion of all construction activities and all disturbed areas have been stabilized. Additional control devices may be required during construction in order to control erosion and/or offsite sedimentation. All temporary control devices shall be removed once construction is complete and the site is stabilized.
6. The contractor must take necessary action to minimize the tracking of mud onto paved roadway(s) from construction areas and the generation of dust. The contractor shall daily remove mud/soil from pavement, as may be required.
7. Residential subdivisions require erosion control features for infrastructure as well as for individual lot construction. Individual property owners shall follow these plans during construction or obtain approval of an individual plan in accordance with S.C Reg. 72-300 et seq. and SCR100000.
8. Temporary diversion berms and/or ditches will be provided as needed during construction to protect work areas from upslope runoff and/or to divert sediment-laden water to appropriate traps or stable outlets.
9. All waters of the State (WoS), including wetlands, are to be flagged or otherwise clearly marked in the field. A double row of silt fence is to be installed in all areas where a 50-foot buffer can't be maintained between the disturbed area and all WoS. A 10-foot buffer should be maintained between the last row of silt fence and all WoS.
10. Litter, construction debris, oils, fuels, and building products with significant potential for impact (such as stockpiles of freshly treated lumber) and construction chemicals that could be exposed to storm water must be prevented from becoming a pollutant source in storm water discharges.

BOARD:
Paul C. Aughtry, III
Chairman
Edwin H. Cooper, III
Vice Chairman
Steven G. Kisner
Secretary

D H E C
PROMOTE PROTECT PROSPER
C. Earl Hunter, Commissioner
Promoting and protecting the health of the public and the environment

BOARD:
Henry C. Scott
M. David Mitchell, MD
Glenn A. McCall
Coleman F. Buckhouse, MD

February 13, 2009

RYAN M SMITH
THOMAS & HUTTON ENGINEERING CO
PO BOX 2727
SAVANNAH GA 31402-2727

Re: RED OAKS PLAZA PHASE 3, Jasper County
File number: 27-02-03-02E

Dear RYAN M SMITH,

Your application package for coverage under the NPDES General Permit for Stormwater Discharges from Large and Small Construction Activities SCR100000 (2006 CGP) and corresponding request for Coastal Zone Consistency (CZC) certification has been received by DHEC-OCRM. Please note the Notice of Intent for coverage under the 2006 CGP is incomplete without a CZC certification. Refer to Section 2.2.C.3 of the 2006 CGP entitled Notice of Intent Contents and Other Required Information. The CZC review for RED OAKS PLAZA PHASE 3 will now commence and the project will be placed on a 10-calendar day public notice. Upon completion of the public notice period and CZC determination, the NPDES review will then commence.

If you have any questions, please call me at 843-953-0200.

Sincerely,

Christine Koczera

Christine Koczera
Regulatory Programs Division

CC: GREGG MALPHRUS–DTG HOLDINGS LLC
Andy Smith - DTG Holdings LLC

EXHIBIT, 16

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
Ocean and Coastal Resource Management
Charleston Office · 1362 McMillan Avenue, Suite 400 · Charleston, SC 29405
Phone: 843-953-0200 · Fax: 843-953-0201 · www.scdhec.gov

D H E C

PROMOTE PROTECT PROSPER

C. Earl Hunter, Commissioner

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

March 04, 2009

Mr. Ryan Smith
THOMAS & HUTTON ENGINEERING CO
50 Park of Commerce Way
Savannah GA 31402

Re: RED OAKS PLAZA PHASE 3, JASPER County
Certification ID # 66049

Dear Mr. Smith:

The Department of Health and Environmental Control's Office of Ocean and Coastal Resource Management has completed the Coastal Zone Consistency review for the plans dated February 9, 2009 on March 4, 2009. As such, your application is now administratively complete. This document serves as notice of an administratively complete application, but it does not constitute final approval. Staff will now continue with the NPDES technical review and the NPDES technical review has now been assigned to Ife Ekpenuma in our Beaufort Regional DHEC-EQC office. Please contact Ife Ekpenuma at 843-846-1030 with any questions regarding this project.

Please feel free to contact me if you have any questions at 843-953-0200.

Sincerely,

Amanda K. Nodolf
Stormwater Project Manager
Regulatory Programs Division

cc: Mr. Andy Smith, DTG HOLDINGS LLC

EXHIBIT
tabbies 17.

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
Ocean and Coastal Resource Management
Charleston Office · 1362 McMillan Avenue, Suite 400 · Charleston, SC 29405
Phone: 843-953-0200 · Fax: 843-953-0201 · www.scdhec.gov

D H E C

PROMOTE PROTECT PROSPER

C. Earl Hunter, Commissioner

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

March 04, 2009

SCDHEC-EQC, Bureau of Water
Storm Water Division
2600 Bull Street
Columbia, SC 29201

RECEIVED
MAR 0 5 2009
BY:.....

RE: RED OAKS PLAZA PHASE 3
JASPER COUNTY
EFIS # - 66049
Permit # - SCR10K658
DHEC Internal Departmental Certification

EXHIBIT
tabbies 18.

Storm Water Division:

This letter shall serve as the DHEC-OCRM Coastal Zone Consistency Certification for the above referenced proposed project, as per the site layout dated February 2, 2009 and approved by DHEC-OCRM March 4, 2009.

(a) **An initiation of construction notice is included and must be completed by the SWPPP Preparer or Project Owner/Operator after coverage under the 2006 CGP is granted for the project. A construction placard will be issued for the project once the appropriate DHEC staff person receives a complete initiation of construction notice. This placard must be placed in a conspicuous place at the construction site. No work can commence until the placard is posted.**

(b) The responsible day-to-day contact must have an approved set of plans available on site during construction activities at all times.

(c) The person responsible for maintenance shall perform or cause to be performed preventive maintenance of all completed storm water management practices to ensure proper functioning. OCRM may conduct periodic maintenance inspections.

(d) This certification is only applicable for the plans that were submitted and approved for this project.

(e) This Coastal Zone Consistency Certification is not intended to authorize any direct or indirect impacts to freshwater wetlands. Any unauthorized direct or indirect impacts to freshwater wetlands shall be considered a violation of this certification, and are subject to enforcement and possibly fines.

(f) No Critical Areas as determined by OCRM shall be disturbed or altered without authorization by the Department.

S.C. Stormwater Management & Sediment Reduction Permitting and S.C. Coastal Zone Management Program (SCCZMP) Consistency Determination
SCDHEC - Office of Ocean and Coastal Resource Management

Project Name: Red Oaks Plaza - Ph. 3

Consistency Determination:

A. **Project Consistent with:** ✓ (3/4/09) **SCCZMP** ✓ (03/27/09) **S.C. Stormwater Management & Sediment Reduction Act**

B. **Project Consistent with:** ____ **SCCZMP** ____ **S.C. Stormwater Management & Sediment Reduction Act** **(After Revisions)**

C. **Project Inconsistent with:** ____ **SCCZMP** ____ **S.C. Stormwater Management & Sediment Reduction Act**

1. **Brief Project Description and Purpose:** Red Oaks Plaza - Phase 3 is a 18.4 acre commercial business park within Hardeeville, SC. The owner of the project is OTG Holdings LLC. Access to the property will be from SC HWY 170.

2. **Brief Description of Stormwater Management & Sediment Reduction System(s):**
Silt fence, stablized construction entrance, temporary/permanent seeding, rip-rap, lagoons, and Type E - surface course curb inlet filters.

3. **Summary of Public and Agency Comments (if none, so indicate):**

A. **(Commenter) (Date of Comment) (Comment Summary)** None

(B.) **None**

EXHIBIT
tabbies 19.

4. **Stormwater Management and Sediment Reduction Assessment:**

A. **Does the project meet the minimum requirements of the S.C. Stormwater Management & Sediment Reduction Act (if no, explain why not)?** Yes

B. **Does this project require NPDES general permit coverage?** Yes

C. **Is a Stormwater Master Plan required & if so has one been submitted?** Yes

5. **S.C. Coastal Zone Management Program (SCCZMP) Assessment:**

A. **Does the project impact any SCCZMP defined resources, including GAPC's (if so describe)?** no impacts to GAPCs are proposed.

B. **Does the project meet Wetland Master Planning Policies (explain)?**

no wetland impacts are proposed

C. **Is a dock master plan required (if so, why)?**

N/A

D. **Is a critical area permit required (if so, describe)?**

N/A

6. **Conclusions: Describe how coastal resource impacts, if any, are being addressed. If the project is inconsistent list (A) specific requirements of the S.C. Stormwater Management and Sediment Reduction Act not met, (B) specific S.C. Coastal Zone Management Program policies not met, (C) project modifications for bringing the project into consistency.**

OCRM complete - no proposed impacts

7. **Plan Review by:** [signature] **Date:** 3/4/09 (OCRM only)

8. **Approved by:** [signature] **Date:** 03/27/09 (NPDES)

9. **Notes:**

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Promoting and protecting the health of the public and the environment

March 27, 2009

GREGG MALPHRUS
DTG HOLDINGS LLC
PO BOX 21299
HILTON HEAD ISLAND SC 29925

EXHIBIT
Tabbies 20.

RE: RED OAKS PLAZA PHASE 3, Jasper County
File number: 27-02-03-02E

Dear Gregg Malphrus:

The Department of Health and Environmental Control (Department or DHEC) has reviewed and approved the Stormwater Pollution Prevention Plan (SWPPP) for the referenced project on **March 27, 2009**. Based on your submission of the Notice of Intent (NOI) and in accordance with the NPDES General Permit for Storm Water Discharges from Large and Small Construction Activities SCR100000 (2006 CGP), this project has been granted coverage under the 2006 CGP. This project's general permit coverage number is **SCR10K658**. The total disturbed area for this site is **18.4 acres**. This NPDES coverage expires on **03/27/2014**, 5 years from the date of issuance.

See attached DHEC Office of Ocean and Coastal Resource Management (DHEC-OCRM) certification approved 03/04/2009 for additional conditions related to the Coastal Zone Consistency determination.

Monthly reports must be submitted to the Department for the above-referenced site. Please refer to SCR100000, mainly Section 3.10, for information about requirements for inspections and monthly reporting. Your first monthly report is due on or before May 28, 2009.

Because this project disturbs 10 or more acres, a pre-construction meeting must be held onsite with all co-permittees and contractors who are not co-permittees (contractors) prior to that co-permittee or contractor performing construction related work intended to disturb soils at the above-referenced site. Please refer to SCR100000, mainly Section 3.2, for information about requirements for pre-construction meetings and certification of those meetings.

The inspections for this site must be performed by qualified personnel who meets the requirements list in Section 3.10.D of the 2006 CGP. Qualified personnel must be one of the following:
1. SWPPP preparer
2. Person under direct supervision of SWPPP preparer
3. Person who has been certified through a Construction Site Inspector Certification Course that has been approved by DHEC (see our website for a list of approved courses)
4. Person with registration equivalent of SWPPP preparer
5. Person under direct supervision of person with registration equivalent to SWPPP preparer

Because this project is part of a larger common plan for development or sale (LCP), all applications for future land-disturbing activities that are part of

this LCP (phases, outparcels, etc.) should include the above-referenced file number (27-02-03-02E), NPDES coverage number (SCR10K658), and project name RED OAKS PLAZA.

An as-built survey, signed and sealed by a S.C. Licensed Land Surveyor, should be submitted for the 2 structure(s) on this site. The survey(s) should show grades, contours, and depths for all structures and should include the elevations and dimensions of all outlet structures, including but not limited to pipes, orifices, risers, weirs, and emergency spillways. A statement signed by the project's S.C. Registered Engineer indicating that the structure(s) was installed and is operating as shown on approved plans and in approved calculations is required. If the elevations or dimensions of the structures listed above do not match those used in the approved plans, provide a certification statement signed by the projects S.C. Registered Engineer indicating that the structure, as built, will function as shown in approved calculations. A new analysis of the structure (routing) may be necessary. The as-built survey and/ or analysis must be accepted by the Department before a Notice of Termination (NOT) can be submitted.

The 2006 CGP can be downloaded at the following website: http://www.scdhec.gov/environment/water/docs/finalcgp.pdf or you may request a copy from us via email (stormwatercgp@dhec.sc.gov). You are responsible for ensuring your contractor(s) complies with the approved SWPPP and the minimum requirements of the 2006 CGP. Also, you are responsible for overall compliance with the Storm Water Management and Sediment Reduction Act of 1991 (1991 Act) and the Federal Clean Water Act (CWA).

You must notify this DHEC-EQC Office prior to starting any land-disturbing activity. The address and telephone number of the DHEC-EQC office are as follows:

Beaufort EQC Office
104 PARKER DR
BEAUFORT SC 29906
843-846-1030

You should be aware that this approval is only applicable for the SWPPP that was submitted for this project. Any additional construction or land disturbing activity beyond the scope of the approved plans is not authorized. Any future work for this project not shown on the stamped, approved plans will require that you submit another site plan for review and approval. All major modifications require review and approval by the Department. Minor modifications to the approved SWPPP may be made by the SWPPP preparer and do not require review and approval by the Department; these changes should be signed and dated by the SWPPP preparer. If you have a question about whether a modification is major or minor, contact the DHEC-EQC at (843) 846-1030.

Please contact Ife S Ekpenuma at (843) 846-1030 to arrange for pick up or mailing of three (3) sets of stamped, approved plans. A copy of the stamped, approved SWPPP (including a copy the 2006 CGP and signed co-permittee and contractor certifications), NOI, and CGP coverage letter from DHEC must be retained at the construction site (or accessible within 30 minutes during normal business hours) from the date of commencement of construction activities to the date of final stabilization. A copy of the stamped, approved SWPPP must be available at a

central location on-site for the use of all those identified as having responsibilities under the SWPPP whenever they are on the construction site. If an on-site location is unavailable to store the SWPPP when no personnel are present, notice of the plan's location must be posted near the main entrance at the construction site.

All contractors who will conduct land-disturbing activities at the site must sign a certification statement as a co-permittee or as a contractor who is not a co-permittee. You are responsible for any contractor who is not a permittee. You are also responsible for listing all contractors in the SWPPP and for holding a pre-construction conference with each co-permittee and contractor who is not a co-permittee before they can conduct land-disturbing activity at the site.

The Department may conduct periodic inspections of your site. Any violations found during these inspections may result in enforcement action. Failure to comply with the approved SWPPP or the minimum requirements of the 2006 CGP, 1991 Act, or CWA may subject you to applicable penalties.

This NPDES coverage should be terminated by the permittee when one of the conditions listed in Section 5.1 of the 2006 CGP has been met. You must submit a Notice of Termination (NOT) to cancel your NPDES coverage under the 2006 CGP. Please see section 5.1 of the 2006 CGP for more information about termination of coverage.

You are responsible for obtaining any other federal, state, or local permit that may be required for this project. Please note we have not sent a copy of this letter to any county or city building official. You must send a copy of this letter to these agencies, if necessary.

Please see the enclosed "Notice of Appeal Procedure" document for information about the procedures for appealing this NPDES coverage. Also, see the enclosed document from the S.C. DHEC Compliance Assurance Division detailing some of the compliance requirements of the 2006 CGP.

If you have any questions or cannot access the referenced websites, please call Ife S Ekpenuma at (843) 849-1030.

Sincerely,

Ife S Ekpenuma Regional Reviewer (Region 8)
Stormwater Permitting Section

CC: Ryan M Smith–THOMAS & HUTTON ENGINEERING CO

BOARD:
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Chairman
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Steven G. Kisner
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Glenn A. McCall
Coleman F. Buckhouse, MD

Notice of Appeal Procedure

The following procedures are in effect beginning July 1, 2006, pursuant to 2006 Act No. 387:

1. This decision of the S.C. Department of Health and Environmental Control (Department) becomes the final agency decision 15 days after notice of the decision has been mailed to the applicant or respondent, unless a written request for final review is filed with the Department by the applicant, permittee, licensee, or affected person.

2. An applicant, permittee, licensee, or affected person who wishes to appeal this decision must file a written request for final review with the Clerk of the Board at the following address or by facsimile at 803-898-3393.

   Clerk of the Board
   SC DHEC
   2600 Bull Street
   Columbia, SC 29201

3. The request for final review should include the following:
   a. the grounds on which the Department's decision is challenged and the specific changes sought in the decision
   b. a statement of any significant issues or factors the Board should consider in deciding how to handle the matter
   c. a copy of the Department's decision or action under review

4. In order to be timely, a request for final review must be received by the Clerk of the Board within 15 days after notice of the decision has been mailed to the applicant or respondent. If the 15th day occurs on a weekend or State holiday, the request is due to be received by the Clerk of the Board on the next working day. The request for final review must be received by the Clerk of the Board by 5:00 p.m. on the date it is due.

5. If a timely request for final review is filed with the Clerk of the Board, the Clerk will provide additional information regarding procedures.

6. The Board of Health and Environmental Control has 60 days from the date of receipt of a request for final review to conduct a final review conference. The conference may be conducted by the Board, its designee, or a committee of three members of the Board appointed by the chair.

7. If a final review conference is not conducted within 60 days, the Department decision becomes the final agency decision, and a party may request a contested case hearing before the Administrative Law Court within 30 days after the deadline for the final review conference.

The above information is provided as a courtesy; parties are responsible for complying with all applicable legal requirements.

October 31, 2006

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
Region 8
Serving Beaufort, Colleton, Hampton and Jasper Counties
Beaufort EQC Office • 104 Parker Drive • Burton, SC 29906 • Phone: (843) 846-1030 • Fax: (843) 846-0604 • www.scdhec.gov

New Compliance Requirements:

Facility inspections and monthly reports

Please note that there are several new compliance requirements under the recently issued NPDES General Permit for Storm Water Discharges from Large and Small Construction Activities, SCR100000 (2006 CGP).

- One of the following inspection schedules has been identified in your approved Storm Water Pollution Prevention Plan (SWPPP): Inspections of the site must be conducted at least once every 7 calendar days or at least once every 14 days and within 24 hours of the end of a storm event of 0.5 inches or greater. You must notify the Department (Bureau of Water, Compliance Assurance Division) in writing to switch your inspection schedule.

- Inspections conducted under this requirement must be available with the SWPPP and include at a minimum: a) Inspection date, b) Name, title, and qualifications of inspection personnel, c) Weather information since last inspection, including details of storm events d) Weather information and discharge information observed during the inspection, e) Location of discharges of sediment or pollutants from the site, f) Locations of Best Management Practices (BMPs) that need maintenance, g) Locations of BMPs that failed to operate as designed or were inadequate for a particular location, h) Locations where additional BMPs are needed, i) Corrective action required including changes needed in the SWPPP and implementation dates. **(An inspection form that may be used for these inspections is available at** http://www.scdhec.gov/stormwater **or from the Compliance Assurance Division)**

- For sites disturbing more than 2 acres, these inspections must be conducted by "qualified personnel"(please see section 3.10D of the 2006 CGP for details on "qualified personnel").

- For construction sites disturbing 10 acres or more, a monthly report must be submitted to **SCDHEC, Bureau of Water, Compliance Assurance Division, 2600 Bull St. Columbia, SC 29201** by the 28th day of the following month and, if applicable, the appropriate Municipal Separate Storm Sewer System (MS4) operator. The monthly report must include at a minimum: a) A summary of the inspections conducted during the month, b) A listing of deficiencies and the date noted, c) For deficiencies requiring corrective action, list the name, address, and telephone number or the responsible party, d) Whether the deficiency was listed in a previous monthly report, e) Corrective actions taken and the date the actions were completed, f) Whether the SWPPP was updated to deal with the noted deficiencies, g) A copy of each inspection conducted during the month. In addition, the first monthly report must include all co-permittee agreements and contractor certifications. As co-permittees and contractors are added during the life of the project, applicable agreements and certifications must be submitted with the next monthly report. These must also be available with the SWPPP. If construction has not begun, the monthly report is still required, but it may simply state that construction has not yet started

Note: For construction sites disturbing less than ten (10) acres, DHEC may require monthly reports on either a Project-by-Project basis or Operator-by-Operator basis.

D H E C

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C. Earl Hunter, Commissioner

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

March 04, 2009

SCDHEC-EQC, Bureau of Water
Storm Water Division
2600 Bull Street
Columbia, SC 29201

RECEIVED
MAR 05 2009
BY:.....

RE: RED OAKS PLAZA PHASE 3
JASPER COUNTY
EFIS # - 66049
Permit # - SCR10K658
DHEC Internal Departmental Certification

Storm Water Division:

This letter shall serve as the DHEC-OCRM Coastal Zone Consistency Certification for the above referenced proposed project, as per the site layout dated February 2, 2009 and approved by DHEC-OCRM March 4, 2009.

(a) **An initiation of construction notice is included and must be completed by the SWPPP Preparer or Project Owner/Operator after coverage under the 2006 CGP is granted for the project. A construction placard will be issued for the project once the appropriate DHEC staff person receives a complete initiation of construction notice. This placard must be placed in a conspicuous place at the construction site. No work can commence until the placard is posted.**

(b) The responsible day-to-day contact must have an approved set of plans available on site during construction activities at all times.

(c) The person responsible for maintenance shall perform or cause to be performed preventive maintenance of all completed storm water management practices to ensure proper functioning. OCRM may conduct periodic maintenance inspections.

(d) This certification is only applicable for the plans that were submitted and approved for this project.

(e) This Coastal Zone Consistency Certification is not intended to authorize any direct or indirect impacts to freshwater wetlands. Any unauthorized direct or indirect impacts to freshwater wetlands shall be considered a violation of this certification, and are subject to enforcement and possibly fines.

(f) No Critical Areas as determined by OCRM shall be disturbed or altered without authorization by the Department.

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
Ocean and Coastal Resource Management
Charleston Office · 1362 McMillan Avenue, Suite 400 · Charleston, SC 29405
Phone: 843-953-0200 · Fax: 843-953-0201 · www.scdhec.gov

D H E C

PROMOTE PROTECT PROSPER

C. Earl Hunter, Commissioner

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

VIA CERTIFIED MAIL

August 21, 2009

Mr. Gregg Malphrus
DTG Holdings, LLC
P.O. Box 21299
Hilton Head, SC 29925

Re: **Notice of Intent to Terminate Permit Coverage**
NPDES Coverage # SCR10K658
TMS # 080-00-03-177, formerly TMS # 080-00-03-065
Jasper County

Dear Mr. Malphrus:

The purpose of this letter is to notify you that the Department of Health and Environmental Control (the Department) intends to terminate the permit coverage granted under the NPDES General Permit for Stormwater Discharges from Large and Small Construction Activities SCR100000 (2006 CGP) for Red Oaks Plaza Phase 3 issued March 27, 2009 (SCR10K658).

Pursuant to 24 S.C. Code Ann Regs. 61-9.122.64(a)(2), the Department is authorized to terminate permit coverage based upon the permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time. The Department has determined that the Notice of Intent application for Red Oaks Plaza Phase 3 contains the following misrepresentations:

- Section II.B – Property Owner Information: The NOI signed February 5, 2009 indicates that DTG Holdings, LLC is the property owner. However, property records provided on Jasper County's website indicate that Parcels A, B and C of TMS # 080-00-03-065 are owned by Jasper Station Associates as of July 23, 2009. A copy is attached for reference. The Notice of Intent (NOI) application for Red Oaks Plaza Phase 3, received by the Department February 10, 2009, provides TMS # 080-00-03-065 for the site. On July 23, 2009 Department staff called the Jasper County Tax Assessor's office. Staff at the Tax Assessor's office indicated the TMS # for Parcel B was formerly associated with 080-00-03-065, but as March 4, 2009 Parcel B now has its own TMS # 080-00-03-177. Staff at the Tax Assessor's office also said that TMS# 080-00-03-177 is owned by Jasper Station Associates. No property records indicate that DTG Holdings, LLC ever owned TMS # 080-00-03-065.

EXHIBIT 21.

- Section III.G – Notice to Comply: The NOI signed February 5, 2009 states that no Notice to Comply or Notice of Violation has been issued for the site or LCP. However, on November 5, 2008, the Department issued a formal warning notice to Mr. Dan M. Lynch of Jasper Station, LLC citing land disturbance without authorization. This warning notice, formally known as a Notice to Comply, is not noted on the NOI application for Red Oaks Plaza Phase 3. Further, Thomas & Hutton Engineering Company, the engineer-of record for Red Oaks Plaza Phase 3, is the same engineer-of-record for Jasper Station, LLC. A copy of this notice is attached.

  Department staff met with Mr. Dan M. Lynch of Jasper Station, LLC, Mr. Ryan Smith of Thomas and Hutton, Mr. Gabe Smith of Thomas and Hutton and Mr. Andrew Necker of Malphrus Construction on site as a result of the aforementioned warning notice and to inspect the amount of unauthorized clearing that had occurred on the tract. This site visit took place January 6, 2009 and a copy of the inspection report is attached for your reference. After the site inspection, Thomas and Hutton sent the Department a plan of how much clearing had occurred on site unauthorized by the Department. This area is nearly identical to the area of Red Oaks Plaza Phase 3. Mr. Ryan Smith, the engineer-of-record for Red Oaks Plaza Phase 3, should have known, correctly documented Section III.G of the NOI and attached a copy of the warning notice as directed in the instructions for the NOI form.

- Section III.I – Other Approvals Applied for this Site: This section of the NOI requires the applicant to list all state and federal environmental permits or approvals applied for or obtained for this site. The NOI indicates that no permits or approvals have been applied for this site. However, on September 30, 2008, the Department denied a request for permit coverage under the 2006 CGP made by Jasper Station, LLC for TMS # 080-00-03-065. This previous application for approval included the Red Oaks Plaza Phase 3 site area and was submitted to the Department by Thomas and Hutton. This previous application is not listed in Section III.I of the NOI. Copies of both the permit coverage denial and NOI form for Jasper Station Tract Clearing are attached for your reference.

By signing the NOI, your engineer-of-record and SWPPP Preparer certified, as stated in Section VI.A "...to the best of my knowledge and belief that the design is consistent with the requirements of Title 48, Chapter 14 of the Code of Laws of SC, 1976 as amended, pursuant to Regulation 72-300 et seq., and in accordance with the terms and conditions of SCR100000." When you signed the NOI in Section VI.B you certified "...under penalty of law that [the NOI for Red Oaks Plaza Phase 3] and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." Based upon the misrepresentations made to the

Department and failing to disclose all of the relevant facts regarding this project site, you must halt all activities on site shown on the construction drawings dated February 9, 2009 prepared by Ryan Smith, PE.

Pursuant to 24 S.C. Code Ann. Reg. 61-9 § 124.5(d)(3), 124.6 and 124.10, this notice of intent to terminate coverage, or draft permit action, is being public noticed for comment for a period of 30 days. The Department's final decision will be made after the public comment period. Pursuant to 24 S.C. Code Ann. Reg. 61-9 § 124.15(b), termination of permit coverage becomes effective 30 days after the service of notice of the final decision unless comments received by the Department during the comment period request a change. Enclosed is a copy of the Public Notice and Fact Sheet for the above-referenced facility. The posting date is August 28, 2009, and the end date is September 27, 2009. The permittee as well as the general public will have the opportunity to comment during this 30-day period. All comments received within the 30-day period will be considered in the formulation of final determinations regarding the permit. If you have any questions, please contact Shannon Hicks, Manager of Stormwater Permitting and Certification for OCRM, at 843-953-0240.

Sincerely,

Barbara Neale

Barbara Neale
Director, Regulatory Programs Division
Ocean and Coastal Resource Management

Ann Clark
Director, Outreach, Stormwater,
Agriculture and Dams Permitting
Environmental Quality Control

cc: Shannon Hicks
Blair Williams
Heather Kellerman
Paul Wise
Jill Stewart
Ryan Smith – via certified mail, with enclosures

Enclosures

4 44049

RECEIVED
FEB 10 2009
DHEC-OCRM
CHARLESTON OFFICE

DHEC

PN
SW-AN

Notice of Intent (NOI) for Stormwater Discharges from Large and Small Construction Activities, NPDES General Permit SCR100000

For official use only

File number: 27-02-03-02E

Permit number: SCR10K658

Submittal package complete: 2/10/09

Public Notice Start Date (OCRM only): 2-20-09

For official use only

SOUTH CAROLINA
DEPT OF HEALTH AND ENVIRONMENTAL CONTROL
ENVIRONMENTAL QUALITY CONTROL
STORMWATER PERMITTING SECTION
APPROVED - FOR CONSTRUCTION ONLY

DHEC PERMIT #: SCR10K658
FILE #: 27-02-03-02E
DATE ISSUED: 03/27/09
BY: [signature]

Submission of an NOI constitutes notice that the entity identified in Section I intends to be authorized under SCR100000. Instructions on page 5.

Date: 10/15/2009

Project/ Site Name: Red Oaks Plaza Phase 3 County: Jasper

Do you want this project to be considered for the Expedited Review Program (ERP)? ☐Yes ☒No (see instructions)

If yes, is the design of this project above regulatory requirements or Low Impact Development? ☐Yes ☐No

I. **Project Information**

Project Owner/ Operator (Company or person): DTG HOLDINGS LLC

Company EIN: [redacted] Phone: 843-725-5700 Fax: 843-725-6777

Mailing Address: PO Box 21299 City: Hilton Head Island State: SC Zip: 29928

Permit Contact (if owner is company): Andy Smith Phone:

Mailing Address: PO Box 21299 City: Hilton Head Island State: SC Zip: 29925

Email address (optional):

II. **Property Information**

A. Site Location (street address, nearest intersection, etc.): Red Oaks Lane access from SC Hwy 170

City/ Town (if in limits): Hardeeville Latitude: 32° 19' 42" N Longitude: -80° 58' 8" W

Tax map # (list all): 080-00-03-065

B. Property Owner: Same as above Phone:

Mailing Address: City: State: Zip:

III. **Site Information**

A. Disturbed area (to the nearest tenth of an acre): 18.4 acres Total area: 18.4 acres

B. Is this project part of a Larger Common Plan for Development or Sale (LCP)? ☒Yes ☐No

LCP/ Overall Development Name: Red Oaks Plaza Phase 3 Check here if this is the first phase. ☐

Previous state permit/ file number: 27-02-03-02 Previous NPDES coverage number: SCR10 NA

C. Start Date (MM/DD/YYYY): 04/01/2009 Completion Date: 07/01/2009

D. Is this site located on Indian Lands? ☐Yes ☒No If yes, name of reservation.

E. Type of Activity (check one):

☒ Commercial ☐ Industrial
☐ Institutional ☐ Residential: Single-family ☐ Multi-use (Commercial & Residential) ☐ Other:
☐ Linear ☐ Residential: Multi-family ☐ Site Preparation (No new impervious)

F. Are there any flooding problems downstream of or adjacent to this site? ☐Yes ☒No

G. Has S.C. DHEC issued a Notice to Comply or Notice of Violation for this site or LCP? ☐Yes ☒No

H. Is any part of the property located inside an MS4 or urbanized area? ☐Yes ☒No

If yes, list the MS4 operator or urbanized area name.

I. List all state and federal environmental permits or approvals applied for or obtained for this site (e.g., RCRA).

IV. **Waterbody Information**

A. Nearest receiving waterbody(s) [RWB]: Okatie River Distance to nearest RWB (feet): 4,500

Classification of nearest RWB: ORW Next/Nearest named RWB: Colleton River

B. 1. Waters of the U.S./ State	On the site?	Delineated/ Identified?	Impacts?	Amount of impacts
a. Jurisdictional wetlands	☐Yes ☒No	☐Yes ☐No	☐Yes ☐No	Ac
b. Non-jurisdictional wetlands	☐Yes ☒No	☐Yes ☐No	☐Yes ☐No	Ac
c. Other Water(s) List:	☐Yes ☒No	☐Yes ☐No	☐Yes ☐No	Ac Feet

2. If yes for impacts in B.1, describe each impact and activity, and list all permits (e.g., USACOE Nationwide permit, DHEC General Permit) and certifications that have been applied for or obtained for each impact.

RECEIVED
FEB 10 2009
DHEC-OCRM
CHARLESTON OFFICE

C. Impaired Waterbodies (See Instructions.)
List the nearest DHEC water quality monitoring station(s) [WQMS(s)] to which construction stormwater (SW) discharges will drain and the corresponding waterbody(s): 18-17 Waterbody(s): Chechessee Creek

1. Is this WQMS(s) listed on the most current 303(d) list for impaired waters? ☐Yes ☒No
   a. If yes for 1, list the impairment(s)
   b. If yes for 1, will the site's construction SW discharges contain any pollutant(s) causing the impairment(s)? ☐Yes ☐No
   c. If yes for b, list the impairment(s) affected by the pollutant(s) referenced in b.
   d. If yes for b, will use of the proposed BMPs ensure that the site's discharges will not contribute to or cause further water quality standard violations for the impairment(s) listed in c? ☐Yes ☐No
2. Has a TMDL(s) been developed for this WQMS(s)? ☐Yes ☒No
   a. If yes for 2, list the impairment(s).
   b. If yes for 2, has the standard been attained for all impairment(s)? ☐Yes ☐No
   c. If no for b, will the site's construction SW discharges contain any pollutant(s) causing the impairment(s)? ☐Yes ☐No
   d. If yes for c, are your discharges consistent with the assumptions and requirements of the TMDL(s)? ☐Yes ☐No

D. 1. Are S.C. Navigable Waters (SCNW) on the site? ☐Yes ☒No
   a. If yes for 1, list the name of the SCNW:
   b. If yes for 1, will any construction activities cross over or occur in, under, or through the SCNW? ☐Yes ☐No
   c. If yes for b, then describe activities.
   d. If yes for b, are the activities in SCNW covered under a DHEC General Permit or other DHEC permit? ☐Yes ☐No
   e. If no for d, has an SCNW permit been applied for or issued for the site? ☐Yes, for all activities ☐Yes, for some activities ☐No
   f. If yes for d or e, list permit number(s) and corresponding activities.

V. Operator Information

A. SWPPP Preparer: Ryan M. Smith S.C. Registration #: 24757
Company/ Firm: Thomas & Hutton Engineering Company S.C. COA #: 00285
Mailing Address: 50 Park of Commerce Way City: Savannah State: GA Zip: 31402
Phone: (Day) 912-234-5300 (Mobile) (Fax) 912-234-2950
Email address (optional):

B. Operator of Day-to-Day Site Activities (ODSA) (Company or person): Andy Smith
Mailing Address: PO BOX 21299 City: Hilton Head Island State: SC Zip: 29925
Phone: 843-379-6700 Fax: 843-379-5777
Site Contact (if ODSA is company): Phone:

VI. Signatures and Certifications: DO NOT SIGN IN BLACK INK!

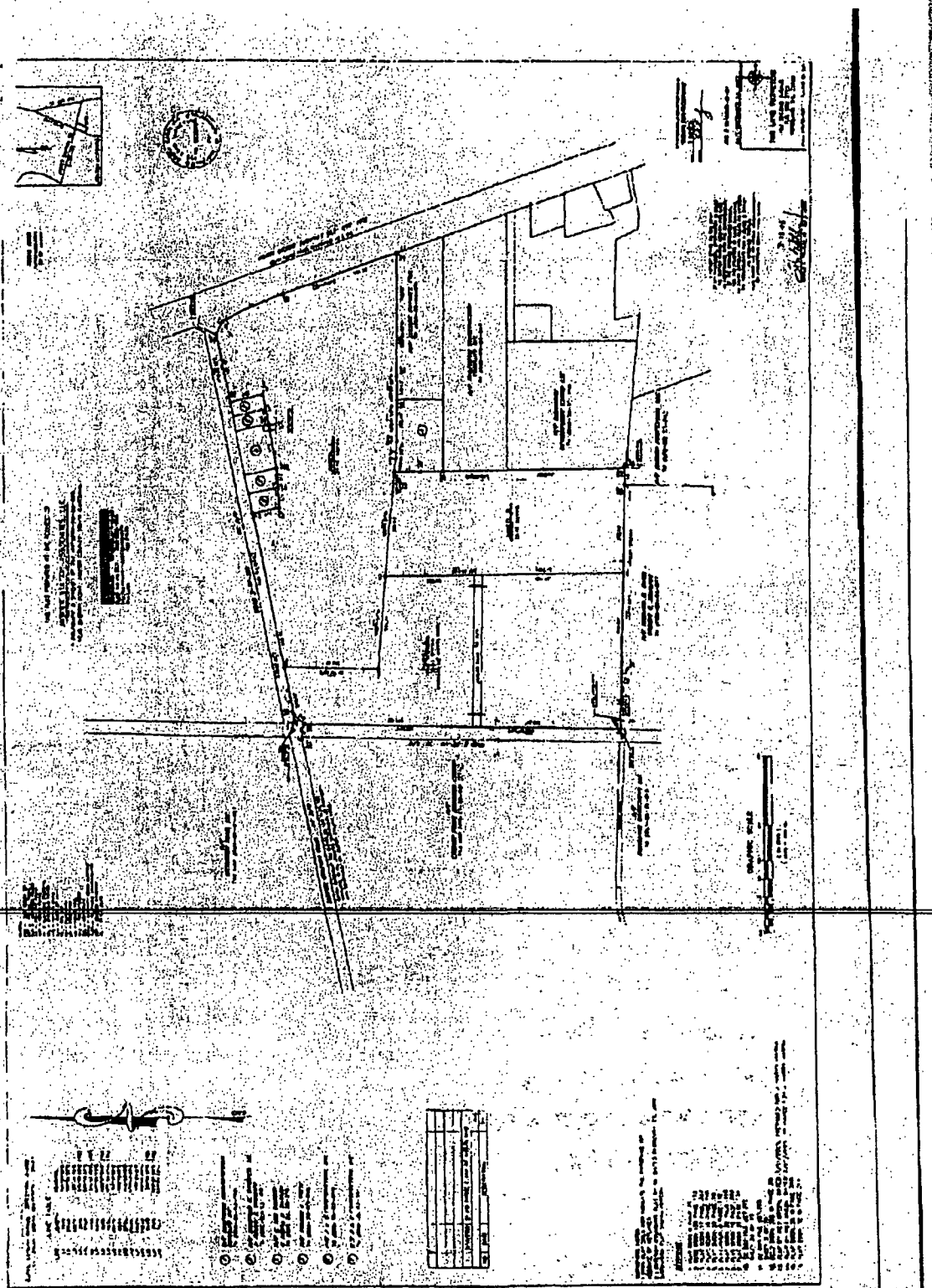
A. One copy of the SWPPP, all specifications and supporting calculations, forms, and reports are herewith submitted and made a part of this application. I have placed my signature and seal on the design documents submitted signifying that I accept responsibility for the design of the system. Further, I certify to the best of my knowledge and belief that the design is consistent with the requirements of Title 48, Chapter 14 of the Code of Laws of SC, 1976, as amended, pursuant to Regulation 72-300 et seq., and in accordance with the terms and conditions of SCR100000. (This should be person identified in Section V.A.)
Check one. ☒Engineer ☐Tier B Surveyor ☐Landscape Architect

Ryan M. Smith		24757
Printed name of SWPPP Preparer	Signature of SWPPP Preparer	S.C. Registration #

B. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

I hereby certify that all land-disturbing construction and associated activity pertaining to this site shall be accomplished pursuant to and in keeping with the terms and conditions of the approved plans and SCR100000. I also certify that a responsible person will be assigned to the project for day-to-day control. I hereby grant authorization to the to S.C. Department of Health and Environmental Control (DHEC) and/or the local implementing agency the right of access to the site at all times for the purpose of on site inspections during the course of construction and to perform maintenance inspections following the completion of the land-disturbing activity. (See Section 122.22 of S.C. Reg. 61-9 for signatory authority information.)

Gregg Malphrus	Manager	2-5-09
Printed name of Project Owner/Operator	Signature of Project Owner/ Operator	Date



From: "Smith, Gabe" <smith.g@thomas-hutton.com>
To: Shannon Hicks <Hickss@dhec.sc.gov>
CC: "Shinique L. Henderson" <HENDERSL@dhec.sc.gov>, 'Dan Lynch' <danmlynch@h...
Date: 1/7/2009 8:54 AM
Subject: RE: Jasper Station Drawing
Attachments: OCRM-1-7-09.pdf

Shannon:

A revised plan is attached. It now shows a 50' swath from the construction entrance to the 18 acre Malphrus parcel. This is an approximation of the cleared area, and has not been surveyed. A hard copy of this drawing and that of the plat will be sent in the mail to you.

Thomas Gabe Smith, P.E.
Thomas & Hutton Engineering Co.
www.thomas-hutton.com
smith.g@thomas-hutton.com
(P) 912-721-4169 (F) 912-721-4289

----Original Message----
From: Shannon Hicks [mailto:Hickss@dhec.sc.gov]
Sent: Tuesday, January 06, 2009 5:21 PM
To: Smith, Gabe
Cc: Shinique L. Henderson; 'Dan Lynch'
Subject: Re: Jasper Station Drawing

Thanks for the e-mail Gabe. It doesn't appear that the roadway portion cleared from SR 141 is included on the plat. Will you please include that area as well? Also, please send a hard copy of the plat to scale in the mail.

Shannon

>>> "Smith, Gabe" <smith.g@thomas-hutton.com> 1/6/2009 4:47 PM >>>
Shannon:

The plan sheet with the area cleared is attached. The parcel in red is the 18-acre piece Malphrus cleared.

Thomas Gabe Smith, P.E.

Thomas & Hutton Engineering Co.

"Relationships and Solutions for Success"

www.thomas-hutton.com<http://www.thomas-hutton.com>

smith.g@thomas-hutton.com<mailto:smith.g@thomas-hutton.com>

(P) 912-721-4169 (F) 912-721-4269

PRIVILEGED AND CONFIDENTIAL: This electronic message and any attachments are confidential property of Thomas & Hutton Engineering Co. The information is intended only for the use of the person to whom it is addressed. Any other interception, copying, accessing, or disclosure of this message is

JASPER STATION ASSOCIATES, LLC
EROSION & SEDIMENTATION CONTROL PLAN
5
PHASE 2
PHASE 1
LEGEND

9/9/09
Shannon.
For discussion w/ Barbara on Thursday @ 9:00 w/ Legal

10/23/09
10:30
3rd floor
DHEC-OCRM Conf. room

THOMAS & HUTTON ENGINEERING CO.
935 HOUSTON NORTHCUTT BOULEVARD
POST OFFICE BOX 1522
MOUNT PLEASANT, SOUTH CAROLINA 29465-1522
TELEPHONE (843) 849-0200
FAX (843) 849-0203

RECEIVED
SEP 3 - 2009
DHEC-OCRM
CHARLESTON OFFICE

August 27, 2009

Ms. Barbara Neale
Director, Regulatory Programs Division
Ocean and Coastal Resource Management
1362 McMillan Avenue, Suite 400
Charleston, SC 29405

Re: Red Oaks Phase 3

Dear Ms. Neale:

We received your letter dated August 21, 2009 regarding the Notice of Intent to Terminate Permit Coverage for Red Oaks Phase 3.

Thomas and Hutton Engineering Co. has a long standing relationship with OCRM. We have been in business for over 62 years and we have always operated with the utmost professional integrity. Over the past twenty years Thomas and Hutton professionals have designed and handled permitting for thousands of development projects in the region. Our staff has consistently maintained communication with DHEC staff and strives to resolve our differences in opinion in a professional manner. Therefore, we are troubled with the accusatory tone of your letter. Your letter incorrectly states the applicant failed to disclose or misrepresented relevant facts. Your letter alleges this misrepresentation and failed disclosure occurred in three sections of the NOI.

Section IIB. – Property Owner Information:

The application requests information pertaining to the Owner/Operator for the site. The company listed on the NOI was under contract to purchase the property and was going to be the Operator responsible construction activities of the site. Our intent was not to mislead or misrepresent, but instead to reflect the situation at the time permit coverage is triggered – when construction commences. This is what we understood to be the correct representation as in most NOI applications we prepare; the actual land owner is under contract with a third party. Moreover, it is unfair for OCRM to allege that we mislead the agency as to ownership of the property. The NOI was accompanied by a verified jurisdictional determination from the Corps of Engineers that indicated this parcel was part of the Jasper Station Tract. The letter from the Corps of Engineers even included the name of one of the partners in Jasper Station, LLC, Dan Lynch. OCRM staff is familiar with Mr. Lynch, having met with him at least twice on matters related to the Jasper Station Tract. It is unfair for OCRM to state that they were misled as to property ownership.

EXHIBIT
Number 22

Section III.G. – Notice to Comply:

Please note the application was prepared and signed by the Engineer of Record in October 2008, as indicated on the NOI. The NOI was not signed until February by the Operator because we were waiting on the wetland determination to be approved by the United States Army Corps of Engineers. The wetland determination dated January 16, 2009, which was forwarded to your office and included in our NOI application indicates the determination was prepared on behalf of Dan Lynch. The determination was for the depicted area from the plat and the plat was entitled "This Plat Prepared At The Request Of / Jasper Station Associates, LLC / A Boundary Survey Of A 18.41 Acre Tract / Being A Portion of Tax Map #080-00-03-065 / Near Cherry Point, Jasper County, South Carolina". Following the receipt of the wetland determination, the Owner/Operator signed the NOI and it was submitted to OCRM. We were unaware of the letter dated November 5, 2008 at the time the NOI was prepared. The letter is regarding a Warning Notice and not specifically listed as a Notice to Comply or Notice of Violation as required in the NOI. And, OCRM staff inspected the Jasper Station tract and the acreage under contract to DTG Holdings at least three times but never commenced enforcement. The report from the final visit, in January of 2009, indicated that enforcement was still to be determined. It is unfair and inaccurate to conclude that we were required to provide this information to OCRM.

Section III.I. – Other Approvals for this Site:

As indicated on the NOI, the line was left blank. This was an oversight on our part as a permit application had been made by our office for another party. This oversight absolutely was not done intentionally. The following information was provided that clearly identified the property that was the subject of the permit application. In fact, when we obtained approval for DTG Holdings we assumed that OCRM had granted the approval knowing that the parcel was part of the Jasper Station Tract. It never occurred to us that OCRM did not realize the parcel was part of the Jasper Station Tract when we included the following information associated with the site in our submittal:

- Latitude and Longitude
- Tax Map Number
- Wetland Determination
- Boundary Survey associated with Wetland Determination
- Vicinity Map
- Digital Project Boundary on State Plane Coordinates
- Multiple Exhibits illustrating the site(as a portion of the larger Jasper Station Tract)

Based on the information provided, OCRM should have discerned where the project was located and commented to us that the NOI was incomplete. At that time, we would have revised the NOI and resubmitted. OCRM has always contacted us and advised us the application is incomplete prior to the review commencing. This same theory would apply to the information provided under Section III.G. It is unreasonable to accuse us of misrepresentation when the information provided clearly discloses the location of the property.

We request you rescind or correct your letter and any inference that Thomas and Hutton intentionally and materially misrepresented information or facts related to this project. We understand members of OCRM staff have openly discussed their opinions that Thomas & Hutton intentionally misrepresented information on the application. If in fact that is the case, we demand a letter correcting these false statements. We would also request a meeting with you and your staff so that we can professionally and amicably resolve any issues OCRM has with this project.

Sincerely,

THOMAS & HUTTON ENGINEERING CO.

J. Mitchell Bohannon III, P.E.
President / CEO / Chairman of the Board

JMB/kts

cc: Mr. Gregg Malphrus
Ryan M. Smith, P.E.

PUBLIC NOTICE
SC Department of Health and Environmental Control
Bureau of Water/Office of Office of Ocean and Coastal Resource Management

2600 Bull Street
Columbia, South Carolina 29201

1362 McMillan Avenue
Charleston, SC 29405

Date: August 28, 2009

NOTICE OF INTENT TO TERMINATE COVERAGE UNDER SCR10K658
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

The Department of Health and Environmental Control intends to terminate the permit coverage granted under the NPDES General Permit for Stormwater Discharges from Large and Small Construction Activities SCR100000 for Red Oaks Plaza Phase 3 issued March 27, 2009 (SCR10K658) to discharge construction stormwater discharges into waters of the State of South Carolina. Pursuant to 24 S.C. Code Ann Regs. 61-9.122.64(a)(2), the Department is authorized to terminate permit coverage based upon the permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time.

APPLICANT: DTG HOLDINGS, FACILITY NAME: RED OAKS PLAZA PHASE 3 (BEAUFORT SQC/OCRM OFFICE), NPDES permit #SCR10K658, P.O. BOX 21298, HILTON HEAD, SC 29925. The facility is located at RED OAKS LANE OFF HIGHWAY 170, HARDEEVILLE, SC, JASPER COUNTY. The coverage is being terminated for the construction of a commercial business park. A fact sheet is available.

Persons wishing to comment on or object to termination of permit coverage or to the conditions are invited to submit same in writing within thirty (30) days of the date of this notice to the attention of: Ms. Shannon Hicks, SC DHEC, Office of Ocean and Coastal Resource Management, 1362 McMillan Avenue, Suite 400, Charleston, South Carolina 29405, Telephone: 843-953-0200. The permit number should be placed at the top of the first page of comments. When there is a significant degree of public interest in a permit or group of permits, the Department may hold a public hearing. A request for public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. SC DHEC is not involved in zoning, land use, or property value issues. Please contact your local County or Municipal officials for questions or concerns on these issues.

All comments received within the 30-day period will be considered in the formulation of final determinations regarding the notice of intent to terminate. A notice of intent to terminate is a type of draft permit. All persons submitting written comments will be notified of the final determinations. Requests for adjudicatory hearings may be filed after the above described determinations have been made. Additional information regarding adjudicatory hearings is available from the Legal Office at the above Department address or by calling 843-953-0200.

Additional information on proposed permit determinations and on hearing procedures is available by writing or calling the Department at the above address or telephone number. Copies of a specific application or draft permit of interest to an individual, organization, or company must be requested in writing. A fee schedule has been established for processing these requests: Reproduction of documents - $0.25 per page. Requests must be mailed to the above address; or requests may be faxed to the Office of Ocean and Coastal Resource Management at 843-953-0201. Arrangements can be made to review all the permit information at the Office of Ocean and Coastal Resource Management's Charleston office.

Please bring the foregoing to the attention of persons you know will be interested in this matter.

EXHIBIT
tabbies 23.

D H E C

C. Earl Hunter, Commissioner

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

FACT SHEET
NOTICE OF INTENT TO TERMINATE NPDES COVERAGE
RED OAKS PLAZA PHASE 3

Project Scope: DTG Holdings, LLC applied for coverage under the NPDES General Permit for Stormwater Discharges from Large and Small Construction Activities SCR100000 (2006 COP) for Red Oaks Plaza Phase 3. The proposed project includes construction activities associated with an 18.4-acre commercial business park.

Reason for Permit Termination: Pursuant to 24 S.C. Code Ann Regs. 61-9.122.64(a)(2), the Department is authorized to terminate permit coverage based upon the permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time. The Department has determined that the Notice of Intent application for Red Oaks Plaza Phase 3 contains the following misrepresentations:

- Section II.B – Property Owner Information: The Notice of Intent (NOI) application for construction stormwater discharges signed February 5, 2009 indicates that DTG Holdings, LLC is the property owner. However, property records provided on Jasper County's website indicate that Parcels A, B and C of TMS # 080-00-03-065 are owned by Jasper Station Associates as of July 23, 2009. The Notice of Intent (NOI) application for Red Oaks Plaza Phase 3, received by the Department February 10, 2009, provides TMS # 080-00-03-065 for the site. On July 23, 2009 Department staff called the Jasper County Tax Assessor's office. Staff at the Tax Assessor's office indicated the TMS # for Parcel B was formerly associated with 080-00-03-065, but as March 4, 2009 Parcel B now has its own TMS # 080-00-03-177. Staff at the Tax Assessor's office also said that TMS# 080-00-03-177 is owned by Jasper Station Associates. No property records indicate that DTG Holdings, LLC ever owned TMS # 080-00-03-065.

- Section III.G – Notice to Comply: The NOI signed February 5, 2009 states that no Notice to Comply or Notice of Violation has been issued for the site or LCP. However, on November 5, 2008, the Department issued a formal warning notice to Jasper Station, LLC citing land disturbance without authorization. This warning notice, formally known as a Notice to Comply, is not noted on the NOI application for Red Oaks Plaza Phase 3. Department records show this area of unauthorized clearing as being nearly identical to the area of Red Oaks Plaza Phase 3. Further, the engineering company representing DTG Holdings, LLC is the same engineering company representing Jasper Station, LLC.

- Section III.I – Other Approvals Applied for this Site: This section of the NOI requires the applicant to list all state and federal environmental permits or approvals applied for or obtained for this site. The NOI indicates that no permits

or approvals have been applied for this site. However, on September 30, 2008, the Department denied a request for permit coverage under the 2006 CGP made by Jasper Station, LLC for TMS # 080-00-03-065. This previous application for approval included the Red Oaks Plaza Phase 3 site area and was submitted to the Department by the same engineering company. This previous application is not listed in Section III.I of the NOI.

Procedures for Final Decision: Pursuant to 24 S.C. Code Ann. Reg. 61-9 § 124.5(d)(3), 124.6 and 124.10, this notice of intent to terminate coverage, or draft permit action, is being public noticed for comment for a period of 30 days. The Department's final decision will be made after the public comment period. Pursuant to 24 S.C. Code Ann. Reg. 61-9 § 124.15(b), termination of permit coverage becomes effective thirty (30) days after the service of notice of the final decision unless comments received by the Department during the comment period request a change. The posting date is August 28, 2009, and the end date is September 27, 2009. Comments can be mailed to the attention of Ms. Shannon Hicks, DHEC-OCRM, 1362 McMillan Avenue, Suite 400, Charleston, SC 29405; Telephone 843.953.0200. The permittee as well as the general public will have the opportunity to comment during this 30-day period. All comments received within the 30-day period will be considered in the formulation of final determinations regarding the permit.

Public Hearing Requests: A petition for a public hearing may be filed within the thirty (30) day comment period. The petition shall indicate the specific reasons why a hearing is requested, the existing or proposed discharge identified therein and specifically indicate which portions of the application or other permit form or information constitutes necessity for a public hearing. If the Department determines that a petition constitutes significant cause or that there is sufficient public interest in an application for a public hearing, it may direct the scheduling of a hearing thereon.

D H E C

PROMOTE PROTECT PROSPER

C. Earl Hunter, Commissioner

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

VIA CERTIFIED MAIL

December 22, 2009

Mr. Gregg Malphrus
DTG Holdings, LLC
P.O. Box 21299
Hilton Head, SC 29925

EXHIBIT
tabbies 24.

Re: **Termination of Permit Coverage – Final Decision**
NPDES Coverage # SCR10K658
TMS # 080-00-03-177, formerly TMS # 080-00-03-065
Jasper County

Dear Mr. Malphrus:

The purpose of this letter is to notify you that the Department of Health and Environmental Control (the Department) is terminating the permit coverage granted under the NPDES General Permit for Stormwater Discharges from Large and Small Construction Activities SCR100000 (2006 CGP) for Red Oaks Plaza Phase 3 issued March 27, 2009 (SCR10K658). Pursuant to 24 S.C. Code Ann Regs. 61-9.122.64(a)(2), cause exists for the Department to terminate permit coverage based upon the permittee's misrepresentation of relevant facts in the permit application and the permittee's failure to fully disclose all relevant facts.

In a letter dated August 21, 2009, the Department notified you that staff found misrepresentations in Section II.B, Section III.G and Section III.I of the Notice of Intent (NOI) application and that the Department intended to terminate permit coverage. This letter was followed by a 30-day public comment period for the permittee and other affected parties to submit comments on the notice of intent to terminate coverage. Although the misrepresentations may have been unintentional, the facts of the matter are DTG Holdings is not the property owner-of-record, and parcel # 080-00-03-177, formerly TMS # 080-00-03-065, is currently part of an enforcement investigation with the Department related to another request for coverage under the 2006 CGP. The NOI for Red Oaks Plaza Phase 3 indicated that no environmental permits or approvals had been applied for or obtained for this site, yet the Department had denied a previous application for permit coverage under the 2006 CGP prior to your filing the NOI in this matter. The Department had also issued a formal warning notice to Jasper Station, LLC indicating that an investigation was underway and ordering that Jasper Station, LLC stop all work on the property. These facts were not accurately represented on the NOI for Red Oaks Plaza Phase 3.

While meeting with your consultant and your representative, your consultant maintained that they were unaware of any previously issued "Notice to Comply" or "Notice of Violation" referenced in Section III.G of the NOI. Your consultant argued that the letter the Department issued to Jasper Station, LLC was not a "Notice to Comply" or "Notice of Violation", but a warning notice. However your consultant did acknowledge that the NOI for Red Oaks Plaza Phase 3 did not accurately reflect property ownership information and that the NOI also did not accurately reflect other previous environmental approvals applied for or obtained at the site. After considering comments provided by your consultant during the comment period and meeting with your consultants and representative, the Department has determined that it is appropriate to terminate permit coverage.

Pursuant to S.C. Code Ann. § 44-1-60(E), the Department's decision to terminate permit coverage becomes final 15 days after notice of this decision has been mailed to the applicant, unless a request for final review is filed

with the Board of Health and Environmental Control. The procedures for appeal are attached. If you have any questions, please contact Shannon Hicks, Manager of Stormwater Permitting and Certification for OCRM, at 843-953-0240.

Sincerely,

for Barbara Neale
Director, Regulatory Programs Division
Ocean and Coastal Resource Management

Ann Clark
Director, Outreach, Stormwater,
Agriculture and Dams Permitting
Environmental Quality Control

cc: Shannon Hicks – DHEC-OCRM
Blair Williams – DHEC-OCRM
Heather Kellerman – DHEC-OCRM
Paul Wise – DHEC-EQC
Jill Stewart – DHEC-EQC
Andy Smith – DTG Holdings, LLC – via certified mail, w/ attachment
Ryan Smith – Thomas and Hutton – via certified mail, w/ attachment
[redacted]

BOARD:
Paul C. Aughtry, III
Chairman
Edwin H. Cooper, III
Vice Chairman
Steven G. Kisner
Secretary



BOARD:
Henry C. Scott
M. David Mitchell, MD
Glenn A. McCall
Coleman F. Buckhouse, MD

C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment

Notice of Appeal Procedure

The following procedures are in effect beginning July 1, 2006, pursuant to 2006 Act No. 387:

1. This decision of the S.C. Department of Health and Environmental Control (Department) becomes the final agency decision 15 days after notice of the decision has been mailed to the applicant or respondent, unless a written request for final review is filed with the Department by the applicant, permittee, licensee, or affected person.

2. An applicant, permittee, licensee, or affected person who wishes to appeal this decision must file a written request for final review with the Clerk of the Board at the following address or by facsimile at 803-898-3393.

   Clerk of the Board
   SC DHEC
   2600 Bull Street
   Columbia, SC 29201

3. The request for final review should include the following:
   a. the grounds on which the Department's decision is challenged and the specific changes sought in the decision
   b. a statement of any significant issues or factors the Board should consider in deciding how to handle the matter
   c. a copy of the Department's decision or action under review

4. In order to be timely, a request for final review must be received by the Clerk of the Board within 15 days after notice of the decision has been mailed to the applicant or respondent. If the 15th day occurs on a weekend or State holiday, the request is due to be received by the Clerk of the Board on the next working day. The request for final review must be received by the Clerk of the Board by 5:00 p.m. on the date it is due.

5. If a timely request for final review is filed with the Clerk of the Board, the Clerk will provide additional information regarding procedures.

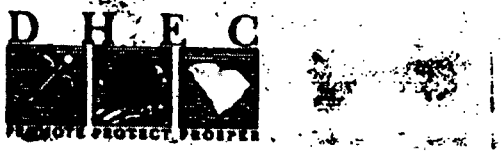
6. The Board of Health and Environmental Control has 60 days from the date of receipt of a request for final review to conduct a final review conference. The conference may be conducted by the Board, its designee, or a committee of three members of the Board appointed by the chair.

7. If a final review conference is not conducted within 60 days, the Department decision becomes the final agency decision, and a party may request a contested case hearing before the Administrative Law Court within 30 days after the deadline for the final review conference.

The above information is provided as a courtesy; parties are responsible for complying with all applicable legal requirements.

October 31, 2006

000825

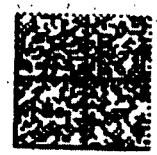


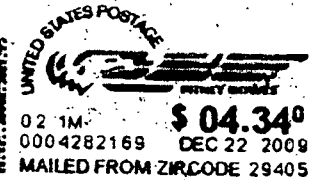
OFFICE OF OCEAN & COASTAL
RESOURCE MANAGEMENT
1362 McMillan Avenue, Suite 400
Charleston, SC 29405

Return Service Requested

CERTIFIED MAIL







Ms. Mary Shahid
McNair Law Firm
100 Calhoun Street
Suite 400
Charleston, SC 29401



29401+3542

000826

DEPARTMENT OF THE ARMY
CHARLESTON DISTRICT, CORPS OF ENGINEERS
69A Hagood Avenue
CHARLESTON, SOUTH CAROLINA 29403-6107

REPLY TO
ATTENTION OF

February 9, 2006

Regulatory Division

Mr. Lafayette Lyle
Soil and Wetland Consulting, Incorporated
153 Bachelor Hill Road
Walterboro, South Carolina 29488

Re: SAC 81-2005-1982-1
Jasper County

Dear Mr. Lyle:

This is in response to your letter of September 6, 2005, requesting a wetland determination, on behalf of Jasper Station Partners LLC, for an 88.93-acre tract located adjacent and southeast of the intersection of Jasper Station Road (S-27-162) and S-27-141, in the Cherry Point area of Jasper County, South Carolina. The project area is depicted on the survey plat you submitted which was prepared by TG Stanley, Jr., signed *11-1-05*, and entitled *"This Plat Prepared At The Request Of / Jasper Station Partners / A Wetland Survey Of A Portion Of Tax Map #080-00-03-065, / Near Cherry Point, Jasper County, South Carolina"*.

This above referenced plat depicts surveyed boundaries of wetlands or other waters of the United States as established by your office. You have requested that this office verify the accuracy of the plat as a true representation of wetlands or other waters of the United States within the regulatory authority of this office. The property in question contains 0.61 acres of federally-defined jurisdictional freshwater wetlands or other waters of the United States subject to the jurisdiction of this office. In addition, the property contains 31.17 acres of federally-defined freshwater wetlands or other waters that are not considered to be subject to the jurisdiction of this office due to a recent decision by the U.S. Supreme Court. The location and configuration of these areas, as well as their status relative to jurisdiction, are reflected on the plat referenced above.

It should be clearly noted that the decision of the U.S. Supreme Court to exclude certain waters and wetlands from federal jurisdiction under the Clean Water Act has no effect on any state or local government restrictions or requirements concerning aquatic resources, including wetlands. You are strongly cautioned to ascertain whether such restrictions or requirements exist for the area in question before undertaking any activity that might destroy or otherwise impact these wetland resources.

Based on an on-site inspection and a review of aerial photography and soil survey information, it has been determined that the surveyed jurisdictional boundaries shown on the referenced plat are an accurate representation of jurisdictional areas within our regulatory authority. This office should be contacted prior to performing any work in these areas. Enclosed is a form describing the basis of jurisdiction for the areas in question, which are subject to the jurisdiction of this office.

EXHIBIT
tabbies 25

If a permit application is forthcoming as a result of this delineation, a copy of this letter, as well as the verified survey plat, should be submitted as part of the application. Otherwise, a delay could occur in confirming that a delineation was performed for the permit project area.

Please be advised that this determination is valid for five (5) years from the date of this letter unless new information warrants revision of the delineation before the expiration date. All actions concerning this determination must be complete within this time frame, or an additional delineation must be conducted. This approved jurisdictional determination is an appealable action under the Corps of Engineers administrative appeal procedures defined at 33 CFR 331. The administrative appeal options, process and appeals request form is attached for your convenience and use.

In future correspondence concerning this matter, please refer to SAC 81-2005-1982-1. You may still need state or local assent. Prior to performing any work, you should contact the South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management. A copy of this letter is being forwarded to them for their information.

If you have any questions concerning this matter, please contact me at 843/329-8044 or toll free at 1-866/329-8187.

Respectfully,

Paul F Hitchcliff
Biologist

Enclosures:

Basis for Jurisdiction
Notification of Appeal Options
Customer Service Survey

Copy Furnished:

South Carolina Department of Health
and Environmental Control
Office of Ocean and Coastal
Resource Management
1362 McMillan Avenue, Suite 400
Charleston, South Carolina 29405

JURISDICTIONAL DETERMINATION Revised 8/13/04
U.S. Army Corps of Engineers

DISTRICT OFFICE: SAC_Charleston
FILE NUMBER: _____ SAC 81-2005-1982-1___

PROJECT LOCATION INFORMATION:
State: SC
County: 0Jasper
Center coordinates of site (latitude/longitude): 80.93594 x 32.33170
Approximate size of area (parcel) reviewed, including uplands: 88.88 acres.
Name of nearest waterway: okatee ck
Name of watershed: broad-st helena

JURISDICTIONAL DETERMINATION
Completed: Desktop determination ■ Date:
Site visit(s) ■ Date(s): 18oct05

Jurisdictional Determination (JD):

■ Preliminary JD - Based on available information, ☐ *there appear to be* (or) ☐ *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

■ Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:

■ *There are* "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: ac.

■ *There are* "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 0.61.

■ *There are "isolated, non-navigable, intra-state* waters or wetlands" within the reviewed area.
■ Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:
A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":
■ The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":
■ (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
■ (2) The presence of interstate waters including interstate wetlands[1].
■ (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
☐ (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ (iii) which are or could be used for industrial purposes by industries in interstate commerce.
■ (4) Impoundments of waters otherwise defined as waters of the US.
■ (5) The presence of a tributary to a water identified in (1) – (4) above.
■ (6) The presence of territorial seas.
■ (7) The presence of wetlands adjacent[2] to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:*

B3: The site's small wetland drains offsite to the Okatee River through an offsite drainage ditch.

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

■ Ordinary High Water Mark indicated by:
- ☐ clear, natural line impressed on the bank
- ☐ the presence of litter and debris
- ☐ changes in the character of soil
- ☐ destruction of terrestrial vegetation
- ☐ shelving
- ☐ other:

■ High Tide Line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gages
- ☐ other:

■ Mean High Water Mark indicated by:
☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.

■ Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: SWC

Basis For Not Asserting Jurisdiction:

■ The reviewed area consists entirely of uplands.
Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- ☐ Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
- ☐ Artificially irrigated areas, which would revert to upland if the irrigation ceased.
- ☐ Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
- ☐ Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
- ☐ Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
- ☒ Isolated, intrastate wetland with no nexus to interstate commerce.
- ☐ Prior converted cropland, as determined by the Natural Resources Conservation Service.

Explain rationale:
- ☐ Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
- ☒ Other (explain):

No wetlands or wetland indicators can be found off the site connecting the large wetland to WOTUS south of the site. This area now contains pine plantation forests, a power line ROW and long-used industrial staging areas. Soil maps indicate a marginal wetland polygon heading to the SW, not supported by ground observations. This area of Jasper County has plateau-like topographic characteristics.

DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
- Data sheets prepared/submitted by or on behalf of the applicant.
  - ☒ This office concurs with the delineation report, dated 10-8-05, prepared by (company): SWC
  - ☐ This office does not concur with the delineation report, dated , prepared by (company):
- Data sheets prepared by the Corps.
- Corps' navigable waters' studies:
- U.S. Geological Survey Hydrologic Atlas:
- U.S. Geological Survey 7.5 Minute Topographic maps:
- U.S. Geological Survey 7.5 Minute Historic quadrangles: SC/jasper
- U.S. Geological Survey 15 Minute Historic quadrangles:
- USDA Natural Resources Conservation Service Soil Survey: jasper74
- National wetlands inventory maps:
- State/Local wetland inventory maps:
- FEMA/FIRM maps (Map Name & Date):
- 100-year Floodplain Elevation is: (NGVD)
- Aerial Photographs (Name & Date): SC99/11211:38
- Other photographs (Date):
- Advanced Identification Wetland maps:
- Site visit/determination conducted on: 18oct05
- Applicable/supporting case law:
- Other information (please specify):

Signature: Project Manager

[1]Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

[2]The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

Applicant:	File Number:	Date:
Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
X	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- APPEAL: If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- APPEAL: If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the Division Engineer, South Atlantic Division, 60 Forsyth St, SW, Atlanta, GA 30303-8801. This form must be received by the Division Engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

If you have questions regarding this decision and/or the appeal process you may contact the Corps biologist who signed the letter to which this notification is attached. The name and telephone number of this person is given at the end of the letter.	If you only have questions regarding the appeal process you may also contact the Coordinator for Appeals in our South Atlantic Division Office in Atlanta, Georgia at (404) 562-5136. 60 Forsyth St, SW Atlanta, GA 30308-8801

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

_____ Signature of appellant or agent.	Date:	Telephone number:

From: Shannon Hicks
To: Boulware, Joshua
Date: 7/21/2009 8:28 AM
Subject: Re: Arcview Addition

Thanks

>>> Joshua Boulware 7/20/2009 2:18 PM >>>
Done

>>> Shannon Hicks 7/20/2009 1:26 PM >>>
Josh-

In the SW later 04-06 please go to the Jasper Station Tract and add the file number 27-06-08-01. The project name in EFIS is Jasper Station Tract Clearing. Can you add in parentheses after the project name (do not permit within this tract - see EFIS)?

Thanks,
Shannon

EXHIBIT
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