

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA ADMINISTRATIVE LAW COURT
Honorable Shirley C. Robinson, Presiding Judge

Case No. 12 ALJ-07-0434-CC

Ken Bruning, Janet Bruning, David Feron, individually and as Trustee,
Mary Feron, individually and as Trustee, Sally Saegmuller Haley and
Terrell Page Haley, individually and as Co-Trustees, Martha James
and Don Haarmeyer, individually and as Co-Trustees, and
Pamela S. North.....Appellants,

v.

SCDHEC and Cat Island, c/o Gary Meyer..... Respondents.

Case No. 12 ALJ-07-0436-CC

In Re: Garfield Park, Phase 3

Cat Island POA, c/o Gary Meyer.....Petitioner,

v.

SCDHEC.....Respondent.

APPENDIX IN OPPOSITION TO JOINT MOTION TO DISMISS

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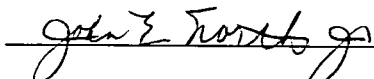
STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

The undersigned, being first duly sworn on oath, deposes and states as follows:

1. I am counsel for the Appellants in this proceeding and represented the Appellants as Petitioners before the Administrative Law Court in the trial of this matter.
2. Attached hereto are true and correct copies of the Order Denying Motion for Summary Judgment entered by the ALC in this proceeding, together with true and correct copies of the portions of the transcripts of the trial before the ALC and the Exhibits cited by Appellants in their Return to the Joint Motion to Dismiss.

Dated this 16th day of March, 2015.



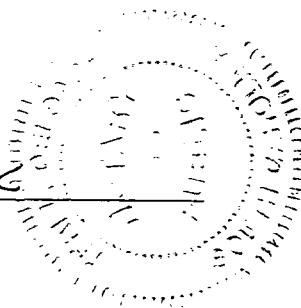
John E. North, Jr., Attorney for Appellants

NOTARY

Sworn to before me this 16TH day of March, 2015.



Notary Public



My Commission Expires: _____

MY COMMISSION EXPIRES AUGUST 24, 2022

FILED

NOV 05 2013

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

SC ADMIN. LAW COURT

Ken Bruning, et al.,

Petitioners,

v.

South Carolina Department of Health and
Environmental Control and Cat Island POA c/o
Gary Meyer,

Respondents.

In Re: Garfield Park Phase 3.

Cat Island POA, c/o Gary Meyer,

Petitioner,

v.

South Carolina Department of Health and
Environmental Control,

Respondent.

Docket No.: 12-ALJ-07-0434-CC

**ORDER DENYING MOTION FOR
SUMMARY JUDGMENT**

Docket No.: 12-ALJ-07-0436-CC

This matter came on for hearing on October 23, 2013, on the Motion for Summary Judgment filed by the Respondent, Cat Island POA, c/o Gary Meyer ("Cat Island POA"). Present on behalf of Cat Island POA was Gary Meyer, as well as its counsel, Mary D. Shahid and Angelica M. Colwell. South Carolina Department of Health and Control ("DHEC") appeared through its counsel, Nathan Haber. The Petitioners, Martha James, Donald Haarmeyer, Salley Haley, Ken Bruning, and Pamela North, appeared in person and through counsel for all Petitioners, John E. North, Jr.

The Court, having reviewed the evidence offered by the parties, and having considered the written and oral arguments of counsel, finds as follows:

1. The Petitioners are owners of lakefront residential lots platted around a 7-acre lake that has been previously permitted and used as the approved detention basin for stormwater

treatment pursuant to a stormwater permit issued by DHEC in 2004.

2. After the dike that created the lake failed and subsequent efforts to repair the dike also failed, Cat Island POA sought authorization from DHEC to change the manner of treating stormwater from the previously approved detention provided by the lake to treatment by in-line filters.

3. In its Motion Cat Island POA requested that the Court grant summary judgment in Cat Island POA's favor and against the Petitioners on the ground that there is no case or controversy because the Petitioners failed to establish standing to challenge the rescission of the coastal zone consistency certification for the Drainage System Retrofit project and the issuance of NPDES General Permit SCR100000 (2006 NPDES CGP) SCR 10N463 for Storm Water Discharge from Large and Small Construction Activities ("General Permit"). In essence, Cat Island POA argues that none of the Petitioners are claiming that they have been or would be injured by installation of the water quality filters, and that the Petitioners' concerns are more about restoration of the detention basin called Cat Island Lake.

4. Under *Sea Pines Assn. for the Prot. of Wildlife, Inc. v. S. C. Department of Natural Resources*, 345 S.C. 594 (2001), the Petitioners have standing if they can demonstrate an injury-in-fact that is causally related to issuance of the General Permit and that the injury is likely to be redressed by a favorable decision of this Court. The Petitioners argue that, in order to evaluate the standing of the Petitioners, it is necessary to consider the totality of the agency action to which they object, as well as the consequences to Petitioners of that agency action.

5. The Court finds that the agency action in question involves more than permission for the installation of water quality filters. DHEC's approval of the General Permit grants Cat Island POA approval to retrofit the previously approved and permitted stormwater treatment system for Garfield Park, Phase 3. Implicit in such a retrofit is the abandonment of the previously approved system of treatment by the detention provided by the lake that abuts the residential property of the Petitioners. Cat island POA's Motion concedes at page 18 that "because installation of the filters is intended to be an alternative to any repair, the breach in the dike would be allowed to remain if the General Permit was declared final and complete."

6. The Petitioners allege that, should the General Permit coverage become final and the dike and lake abandoned, the consequences to them include the following:

- a. Encroachment of tidal waters onto their residential property.

- b. Destruction of their landscaping by the exposure to tidal salt water.
- c. Loss of the value of the lakefront property of Petitioners.
- d. Loss of the aesthetics of the lake and its wildlife.

7. In addition to the economic impact to them if the General Permit coverage becomes final, Petitioners relied upon *Sea Pines, supra*, to establish that deprivation of their aesthetic and recreational interests in enjoying and observing wildlife is a “judicially cognizable legal injury in fact” which also provides them standing in this matter. 345 S.C., at 600-601.

8. This Court finds that, when considering the totality of the agency action, which not only allows use of in-line filters but further allows for the abandonment of the lake as the detention basin and permits the dike to remain unrepaired, the Petitioners have demonstrated that there is the possibility the Petitioners may suffer some injury resulting from the agency action.

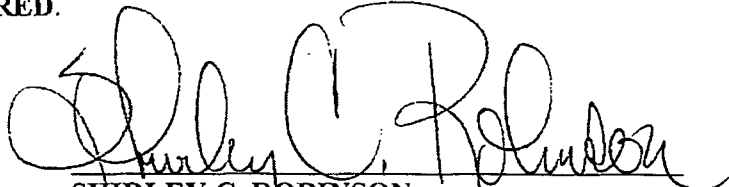
9. Cat Island POA further argues that Petitioners lack standing because the injuries to Petitioners are not likely to be redressed by a favorable decision of this Court. In support of its position, Cat Island POA argues that this Court cannot order the repair of the dike and restoration of the lake because other federal and state regulatory action may be required before any such repair could be made.

10. Whether this Court can or should order the dike repaired need not be decided at this juncture of the proceedings. What is clear is that, if the Petitioners are able to carry their burden to show at trial that DHEC’s approval of the General Permit violates numerous laws and regulations, this Court has the power to set aside the issuance of the Permit. If that were to happen, the permission of DHEC to change the stormwater system from detention by the lake to filters will have been rescinded. That would leave the original stormwater permit in place and any injuries to the Petitioners arising from DHEC permanently authorizing the use of filters and the abandonment of the lake as the detention basin will be redressed.

11. Cat Island POA contends on page 5 of its Motion that, “The fate of the dike would be in the hands of multiple state and federal permitting and resource agencies. It is unknown whether the outcome of that process would be successful...” However, the fact that other agency action might be required before an actual repair to the dike is commenced does not deprive the Petitioners of their standing to object to the DHEC’s approval of the General Permit.

IT IS THEREFORE ORDERED that the Motion for Summary Judgment filed by the Respondent, Cat Island POA, is hereby **DENIED**.

AND IT IS SO ORDERED.


SHIRLEY C. ROBINSON
South Carolina Administrative Law Court Judge

November 5th, 2013
Columbia, South Carolina

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or in the Interagency Mail Service addressed to the party(ies) or their attorney(s).

This 5 day of November 2013

By: Jeeshy Henderson
Judicial Law Clerk

Transcript of the Testimony of
KEN BRUNING, ET AL. V. SC DHEC, ET AL.

Date: January 14, 2014



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Condensed Transcript and Word Index

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1 STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT DIVISION

2 Ken Bruning, Janet Bruning,)
David Feron, individually and as)Docket No.
3 Trustee, Mary Feron, individual)12-ALJ-07-0434-CC
4 and as Trustee, Sally Saegmuller)
Haley, and Terrell Page Haley,)
5 individually and as Co-Trustees;)
6 Martha James and Don Haarmeyer,)
individually and as Co-Trustees;)
7 and Pamela North,)

8 Petitioners,)
9 v.)

10 South Carolina Department of)
Health and Environmental Control)
11 and)
12 Cat Island POA, c/o Gary Meyer,)
13 Respondents.)

14 In Re: Garfield Park Phase 3.)
15 Cat Island POA, c/o Gary Meyer,)

16)Docket No.
17 Petitioner,)12-ALJ-07-0436-CC
18 v.)
19 South Carolina Department of)
Health and Environmental Control,)
20 Respondent.)
21 In Re: Garfield Park Phase 3.)

22 ADMINISTRATIVE HEARING
23 *****
24
25

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Angelica M. Colwell, Esquire
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4 Attorney for Cat Island POA
5 Also Present:
Teckla Henderson.
6 Judicial Law Clerk for Judge Robinson
7

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1 Day 1 - Tuesday, January 14, 2014
10:33 a.m. - 5:06 p.m.
2 Day 2 - Wednesday, January 15, 2014
9:22 a.m. - 5:10 p.m.
3 Day 3 - Thursday, January 16, 2014
9:12 a.m. - 4:10 p.m.
4 Day 4 - Friday, January 17, 2014
9:36 a.m. - 3:29 p.m.
5
6

7 The hearing before the Honorable Shirley C.
Robinson was taken at the Edgar A. Brown Building,
1205 Pendleton Street, Suite 224, Columbia, South
8 Carolina, on the 14th, 15th, 16th and 17th days of
January, 2014 before Carla S. Dominick, Court
9 Reporter and Notary Public in and for the State of
South Carolina.
10

11 APPEARANCES
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25

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1 (Pages 1 to 4)

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1 Q: Okay. And do you observe and agree that you 2 have large trees growing right up to the edge 3 of the water on the entire perimeter of the 4 lake? 5 A: I don't think you can tell anything from 6 looking at that. I mean, it looks like there 7 are trees around it. Yes. 8 Q: Well, as the owner of G tract, you have a whole 9 bunch of 40-foot trees right along the border 10 of that lake. 11 A: What's the point? 12 Q: That's not the issue. Please just answer the 13 question. 14 A: I know the trees are on G tract. Yeah. Could 15 be. 16 Q: And would you agree that you have 40-foot trees 17 growing right to the edge of the former 18 lakebed? 19 A: Yes, I -- we do. 20 Q: Now, take a look, if you would, at page 25 and 21 compare it to page 26, and do you find as a 22 home site that living at a home with a view as 23 depicted in page 25 would be preferable to one 24 depicted in page 26? 25 A: You've got high tide, low tide, or what? I	1 along that lake? 2 A: Absolutely not. We went through that already. 3 Tidal marsh is more valuable. That lake did 4 not stay like that picture you gave me there. 5 You know that. It had algae in it a lot of 6 times. It was low. It would smell so let's 7 not -- I mean, this doesn't tell the story. 8 Q: Tell me about it getting low. Are you talking 9 about times when you didn't have very much 10 rainfall? 11 A: Rainfall or lower tides. 12 Q: So the entire are of the lake would get low? 13 A: Yes. 14 Q: Okay. 15 A: And algae --- 16 Q: If you had so much saltwater intrusion --- 17 A: Well, in the lower tides it didn't because you 18 had a -- you had a flashboard. 19 Q: Okay. Isn't it a fact that that flashboard was 20 at an elevation that was higher than the 21 average high tide in Beaufort County? 22 A: No, that's not true at all. 23 Q: Isn't it true that the only time salt water 24 would come in is when the tides were higher 25 than an average high tide?
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1 don't know. Yeah. Well, sure. There's water 2 there. 3 Q: Okay. So you would -- would you agree it's 4 more attractive and would be preferable to have 5 a home site with the water view? 6 A: As opposed to what? Where there's --- 7 Q: As opposed --- 8 A: Whether it's created --- 9 THE COURT: One --- 10 A: --- by a tidal --- 11 THE COURT: --- at a time. 12 Q: As opposed to what is depicted on page 26. 13 A: I can't tell from these pictures. I don't know 14 what you're trying to say. 15 Q: Do you recall testifying last summer that you 16 agreed that page 25 is more attractive --- 17 A: Okay. 18 Q: --- than 26? 19 A: Okay. Twenty-five is more attractive than 26. 20 Q: Okay. And do you recall testifying that most 21 buyers would like the view with the water? 22 A: Sure. I would, yeah. 23 Q: Would you agree then that your decision to 24 allow the Cat Island lake to stay drained 25 causes an adverse impact to the homeowners	1 A: No, that's not true. I don't know where you're 2 getting -- I don't know where you get your 3 information. 4 MR. NORTH: I have no further questions at this 5 time. 6 THE COURT: Oh, no, Mr. Meyers. 7 THE WITNESS: I'm not finished? Okay. 8 THE COURT: You're not finished. 9 THE WITNESS: I'm not finished yet? 10 THE COURT: You're not. 11 MR. HABER: Good afternoon, Mr. Meyer. My name is 12 Nathan Haber. I represent the Department. 13 MR. MEYER - CROSS EXAMINATION BY MR. HABER: 14 Q: I believe we met during your deposition. 15 A: Yes, sir. 16 Q: I have a few questions for you. What year did 17 the dike blow out? 18 A: Four and a half year -- 2009, I believe. 19 Q: 2009. Do you remember when about in 2009? 20 A: I think it was in the summer. I can't remember 21 exactly. July. June/July. 22 Q: Mr. North referred you to his Exhibit 67. Do 23 you recall that? That was an email sent from 24 Amanda Nodolf to you? 25 A: Right.

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1 A: It -- I don't deal with these regulations but
 2 it -- it appears that what that is saying is
 3 that a critical -- whatever permit is
 4 associated with these regulations is what needs
 5 to comply with the Coastal Zone Program.
 6 Q: Take a look at subparagraph 11. Do you see the
 7 directive there about reviewing all state and
 8 federal permit applications in the Coastal
 9 Zone?
 10 A: I see that.
 11 Q: Would you agree that all state and federal
 12 permit applications would include a stormwater
 13 permit?
 14 A: The stormwater permit is a -- a state
 15 application, yes.
 16 Q: Okay. So would you agree that that section
 17 applies to a stormwater permit?
 18 A: I don't know. I don't deal with these
 19 regulations so I can't really speak to that.
 20 Q: Well, this is a state statute, not a
 21 regulation.
 22 A: It's not one that I deal with on a regular
 23 basis, no.
 24 Q: Is it fair to say you didn't deal with it at
 25 all in the context of the retrofit application?

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1 A: Yeah.
 2 Q: Take a look, if you would, at Section 48-39-
 3 150. Is it fair to say that none of the
 4 considerations that are listed there were
 5 considered by you in the context of ruling upon
 6 the appropriateness of the retrofit?
 7 A: I mean, this is not -- you know, it's -- it's
 8 not -- not something I deal with so, no.
 9 Q: So these were not factors that you considered?
 10 A: I considered the -- the state stormwater permit
 11 and the Coastal Zone Management program
 12 policies that applied to that state coastal
 13 zone consistency, yes.
 14 Q: Okay. But I'm talking about the factors that
 15 are listed here, the 10 factors in Section 150.
 16 Those were not considerations, were they, in
 17 your analysis of the retrofit?
 18 A: These are -- I mean, this is critical area
 19 permitting stuff. I deal with stormwater
 20 permitting and coastal zone consistency issues.
 21 Q: If your stormwater permit affected the critical
 22 area, would not you have to also consider the
 23 issues that relate to critical area?
 24 A: That would be a critical area permit. That's
 25 handled by another division.

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1 Q: So that would be somebody else?
 2 A: Right.
 3 Q: Okay. Now the -- you said you didn't consider
 4 these 10 factors. You see that the 10th one is
 5 the extent to which the proposed use could
 6 affect the value and enjoyment of adjacent
 7 owners?
 8 A: It's -- I mean, this is what I've said before.
 9 This is a critical area permit issues that ---
 10 Q: Isn't it fair to say nobody ever asked for a
 11 critical area permit?
 12 A: I -- I mean, that's -- if -- if it required
 13 one, they would have had to get one. I mean --
 14 -
 15 Q: Well, has the applicant, after four and a half
 16 years, ever asked for one?
 17 A: That's not my purview. I looked at the -- the
 18 stormwater permit and the coastal zone
 19 consistency issues and it, you know, that --
 20 that critical area permit requirements -- I
 21 mean, we -- I mean, I consulted with -- with
 22 that division of OCRM and, you know, the
 23 applicant was aware that if it required a
 24 critical area permit that, you know, that's
 25 what, I mean, he would have to apply for. I

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1 made -- you know, I made that clear during the
 2 review process but, you know, as far as
 3 reviewing it or processing the application,
 4 that was not -- not part of my purview.
 5 Q: Okay. If you'll flip back one page to Section
 6 48-39-130, do you see under subsection a
 7 state statute that says that after 1977 no
 8 person shall in any way alter any critical area
 9 without first obtaining a permit?
 10 A: That's what it looks like.
 11 Q: Would you agree that changing the stormwater
 12 system to leave the dike open alters the
 13 critical area by adding eight acres of mudflat
 14 bottom to the critical area?
 15 A: I -- I mean, that's -- that's not my area of
 16 expertise. It seems to me it would enhance it.
 17 It only expands the critical area out there.
 18 I -- you know, I -- that's not my ---
 19 Q: Whether it enhances it or not, would you agree
 20 it alters it?
 21 A: I mean, that's not my call. No.
 22 Q: Okay. Would you agree that -- well, was one of
 23 your requirements for the retrofit that the
 24 dike be stabilized?
 25 A: Yes, I believe it was part of the permit. Yes.

40 (Pages 157 to 160)

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1 statement. 2 THE COURT: Sustained. 3 MR. HABER: Thank you. 4 THE COURT: Mr. Haber, anything further of this 5 witness? 6 MR. HABER: No, Your Honor. 7 THE COURT: Thank you. Be seated. Mr. North, are 8 you prepared to call your next witness? 9 MR. NORTH: I am. I would call Pamela North. 10 THE COURT: Mrs. North, I think you know the drill. 11 Face the court reporter --- 12 MRS. NORTH: I think so. 13 THE COURT: --- before you take your seat. Raise 14 your right hand to be sworn. 15 PAMELA NORTH, being duly sworn, testifies as follows: 16 COURT REPORTER: State your name for the record. 17 THE WITNESS: Pamela North. 18 MRS. NORTH - DIRECT EXAMINATION BY MR. NORTH: 19 Q: Please state your name for the record. Oh, you 20 just did. 21 A: I did already, but I'll do it again. 22 Q: I have a better question. Please tell me what 23 you did with your witness outline. 24 A: I don't know. 25 MR. NORTH: Should I call my next witness, Your	1 positioned, was the one we agreed that we 2 wanted. It had an old house on it that needed 3 a big remodel, but the property itself was 4 unique. It was out on a point; it had almost 5 450 feet of frontage on water whether you count 6 Cowen Creek or the lake. It looked straight 7 out to Port Royal Sound. The way the original 8 house was oriented, the -- you saw essentially 9 no neighbors. Your view was out the waterway 10 and across this beautiful lake to undeveloped 11 property. 12 Q: You have an open view of the Atlantic Ocean? 13 A: Yeah, on clear days you can see the waves. 14 Q: And on a non-clear day, I mean, you can look 15 out and see Hilton Head, can't you? 16 A: Yeah, you can. 17 Q: Hilton Head Island? 18 A: Yes, you can. 19 Q: Before you selected that property, do you 20 remember driving up and down every inlet, 21 river, creek, bay and sound between Charleston 22 and south -- all the way through south of 23 Savannah? 24 A: I can't testify that we drove every road, but 25 we surely drove a lot of roads.
Page 382	Page 384
1 Honor? 2 Q: Could you tell the Court a little bit about 3 your background, your education, where you 4 live? 5 A: I live at 2 Rush Street in Beaufort, which is 6 in the rookery. I'm trained as a lawyer. I 7 graduated from law school in 1977 and practiced 8 actively until five or six years ago. 9 Q: Okay. Is it fair to say that you are 10 effectively my boss? 11 A: Not any more. 12 Q: How -- where is your property in relation to 13 the other petitioners and the dike? 14 A: Our property is the closest to the dike. We 15 have frontage on Cowen Creek and also along the 16 lake. The Brunings live next to us, but not on 17 the lake itself. Then around the corner are 18 the Ferons two blocks, and then Martha James 19 and Don's lot, and then Sally Haley's lot. 20 Q: Okay. Why did you buy that lot? 21 A: At the time we had a boat that required a deep 22 water dock and we looked all through Beaufort 23 and Charleston for a deep water property that 24 would accommodate it and that particular lot, 25 because of its shape and where it was	1 Q: You spent months looking at every possible area 2 for a home site? 3 A: Yes. 4 Q: Tell the Court why this home site was so unique 5 to you. 6 A: You know, we started looking for deep water, so 7 that was on our -- our criteria, but the -- the 8 lake truly was magical. It had all of these 9 nesting and wading birds and, you know, just 10 the setting with this pristine water all along 11 one side of the house and on the other side of 12 the house deep water was just -- we saw nothing 13 like it anywhere. 14 Q: How far was your screen porch from the lake? 15 A: Well, our house is elevated up about 14 feet. 16 It's only one floor, but it's elevated 14 feet 17 and on the lake side, the closest point is 18 about five feet from -- from what used to be 19 the level of the water in the lake. 20 Q: Okay. Now, you're referring to the area that's 21 the screen porch? 22 A: Yes. 23 Q: Okay. Would it be fair to say that before the 24 break in the dike, the vast majority of all 25 time spent in the house was on the screen

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1 porch?
 2 A: Absolutely.
 3 MS. COLWELL: Objection, Your Honor, he's leading
 4 the witness.
 5 THE COURT: It is somewhat leading, but I'm going
 6 to allow it.
 7 Q: Now, from that vantage point, were you able to
 8 see wood storks?
 9 A: From the vantage point of the screen porch?
 10 Q: Yes. Well, from -- let's back up. From the
 11 vantage point of anywhere looking toward the
 12 lake.
 13 A: Yes, along the lake side there is my office;
 14 there is a room that has the screen porch off
 15 of it and then there's the back deck. From any
 16 of those areas, you could stare right down at
 17 the wood storks wading and feeding and you
 18 could see ---
 19 Q: Would you be looking straight down at them?
 20 A: Just about, but they use that entire lake to
 21 fish and do what wood storks do, and you could
 22 see them in the trees across -- across the way
 23 on G tract.
 24 Q: Did you see a multitude of wood stork nests
 25 throughout that area?

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1 MS. COLWELL: Objection, Your Honor, continuing to
 2 lead his witness.
 3 THE COURT: Yes, please rephrase that question.
 4 MR. NORTH: Okay.
 5 Q: Tell me about wood stork nesting around the
 6 lake?
 7 A: I saw wood storks sitting in nests through some
 8 binoculars, at least it appeared to me to be
 9 nests. I think Sally Haley, who will testify
 10 later, can speak to that subject more
 11 accurately since she was closer and she's a
 12 bird watcher.
 13 Q: Do you remember seeing wood storks bringing
 14 food to females sitting on nests?
 15 A: That's what it appeared to me.
 16 Q: Do you remember anything about egrets or ibis
 17 or any of the other types of colonial birds?
 18 A: Yes, they were all through the lake and they
 19 all appeared to have nests up on G tract.
 20 There were always baby ibis and herons
 21 wandering around. The lake was full of bird
 22 life.
 23 Q: Whatever other kind of wildlife?
 24 A: Alligators; we saw an otter; I even saw a rosy
 25 spoonbill once; there were turtles. As I said,

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1 Sally can speak to this. I think she took a --
 2 kept a list of everything.
 3 Q: When you remodeled the house, what did you do
 4 with regard to windows along that south side of
 5 the house?
 6 A: We installed -- there were a few small windows.
 7 The screened porch wasn't every open. We
 8 changed the configuration of that house and
 9 installed a bank of windows so that view was
 10 available.
 11 Q: So that you could maximize the view of the
 12 lake?
 13 A: Yes.
 14 Q: When you bought your house, did you get a copy
 15 of a plat that showed the lake at that
 16 location?
 17 A: Actually, I think our deed incorporated a plat
 18 on which the -- it was described lake.
 19 Q: What about social use of the house as it
 20 relates to the lake or the failure of the
 21 dike?
 22 A: Oh, all of our -- all of our kids, we have
 23 numerous, love the house. All of our time was
 24 spent on the screened porch; we had heaters
 25 installed so we could use it during the cold

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1 weather. I mean the view was, of all places in
 2 the house, the most interesting and the most
 3 compelling for everyone.
 4 Q: Okay. Tell us about your daughter's wedding.
 5 A: Our daughter wanted to get married at home and
 6 so we said fine, sure. She loved the setting
 7 and loved the house, so we started planning the
 8 wedding. The dike broke, but we were assured
 9 that it would be fixed before her actual
 10 wedding, but, of course, it was not. So all of
 11 the guests arrived to a view of a huge mudflat.
 12 You know, we oriented the wedding toward -- you
 13 know, toward the dock and away from the
 14 mudflat, but it was an afternoon wedding.
 15 There it was.
 16 Q: Did all the guests have to come up the driveway
 17 and pass the mud pit to get to the house?
 18 A: Yes.
 19 Q: Did you have any discussions with anybody from
 20 OCRM the first year or two after the dike
 21 failed?
 22 A: Yes.
 23 Q: Tell me about that.
 24 A: We knew Geordie Madlinger from dealing with
 25 dock permits I think because we put a boat lift

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1 on our dock and we needed a permit and that
 2 sort of thing, so when nothing was happening as
 3 far as repair of the dike or anything, we
 4 called him and said come and look at this.
 5 What can be done? And he said ---
 6 MR. HABER: Objection, Your Honor, hearsay.
 7 THE COURT: Sustained.
 8 MR. NORTH: All right. Your Honor, I think the
 9 response will be an admission against interest
 10 that would not be hearsay. I'll tell you what,
 11 I'll withdraw the question if we can get
 12 assurances that Mr. Madlinger will be here on
 13 Thursday as noticed.
 14 MR. HABER: Your Honor, I'm not sure, on the
 15 record, if Mr. Madlinger will be here on
 16 Thursday or Friday.
 17 MR. NORTH: Well, what about here for the case.
 18 MR. HABER: Again, he will be in front of me for my
 19 case in chief.
 20 MR. NORTH: Okay. Then that's fine. As long as --
 21 -
 22 MR. HABER: Which you'll be (inaudible).
 23 MR. NORTH: We don't need to bicker about it.
 24 We'll just wait for Mr. Madlinger.
 25 MR. HABER: That'd be fine, Your Honor.

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1 Q: Tell me your view of the present appearance of
 2 the lakebed.
 3 A: Since the dike failed, there's been some growth
 4 of marsh grass, mostly up where the water comes
 5 in from the golf course. Unfortunately, it's
 6 not where our view is. If you look out our
 7 deck or off our screen porch and you look
 8 across at G tract, it's essentially a mudflat.
 9 I think there's a little chunk of marsh grass
 10 in the middle. It's a big rutted mudflat.
 11 Q: Does it look a lot better when the tide comes
 12 in?
 13 A: If it's a full tide it looks almost like it
 14 used to, but it doesn't last very long.
 15 Q: And when it does come in, do you have the same
 16 wildlife that you had when the water was there
 17 all the time?
 18 A: No, no wildlife.
 19 Q: As of today, are there any bird nests around
 20 the lake?
 21 A: I haven't seen any.
 22 Q: Do you see any birds in the trees?
 23 A: On occasion, there might be an ibis or two, but
 24 certainly I haven't seen any wood storks there;
 25 I haven't seen any herons around, basically not

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1 much.
 2 Q: Do you have Exhibit 1 handy?
 3 A: Yes, I have it in this book.
 4 Q: Okay. If you could flip to Exhibit 1, I would
 5 appreciate it.
 6 A: All right.
 7 Q: Let's go in chronological order. Let's go to
 8 page seven, if you could.
 9 A: It looks like it's been renumbered from six to
 10 seven, so you'll have to tell me what I'm
 11 supposed to be looking at.
 12 Q: Is it a picture of the area outside of the
 13 dike?
 14 A: Yeah, the Google Earth?
 15 Q: Yes.
 16 A: Yes, I have it.
 17 Q: Okay. Do you recall measuring the distance
 18 between the breach in the dike and the oyster
 19 bed by following the circuitous route outside
 20 of the dike?
 21 A: Yes.
 22 Q: Tell me what you did to accomplish that.
 23 A: Got in a kayak with a bunch of tomato stakes
 24 that are very tall; kayaked in to the breach of
 25 the dike in that circuitous route; stuck the

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1 tomato stakes into the ground along the route
 2 until the first chunk of oysters and took a
 3 pink string and tied it to each of the tomato
 4 stakes so the pink string and the tomato stakes
 5 followed the circuitous route.
 6 Q: And in doing that, take a look at page eight,
 7 is that a picture of oysters in the marsh grass
 8 outside of the dike?
 9 A: Yes.
 10 Q: And are those oysters far inside of the area on
 11 page seven where the white appears?
 12 A: Oh, yes.
 13 Q: Okay. Is it fair to say that there are oysters
 14 between the dike and the white area depicted on
 15 page seven?
 16 A: Yes.
 17 Q: And is page eight a picture of some of those
 18 oysters?
 19 A: Yes.
 20 Q: Okay. Take a look at page nine, is that the
 21 result of your string project?
 22 A: Yeah, that's part of it.
 23 Q: Okay.
 24 A: It's not the entire string project, but that's
 25 what it looked like.

98 (Pages 389 to 392)

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1 house?
 2 A: Yes.
 3 Q: At the time of that photo, do you see that it
 4 was copyrighted in 2012 by Google?
 5 A: Yes, I see that.
 6 Q: Can you see any marsh grass?
 7 A: In the lakebed?
 8 Q: Yes.
 9 A: No.
 10 Q: Take a look at -- and that was three years
 11 after the break, is that correct?
 12 A: The break was in June of 2009.
 13 Q: Okay. Take a look at page 16. What does that
 14 depict?
 15 A: I have it. That's after the failure of the
 16 dike and that is water, you know, over our yard
 17 boundaries at a high tide.
 18 Q: Take a look at page 17 and tell me what that
 19 depicts.
 20 A: That was a photograph taken at night because it
 21 was a high tide at that particular time, so it
 22 was taken with a flash light and the darker
 23 area to the right of the sort of orangey part
 24 is -- is the level of the water at that time
 25 and the side of my house is right there with an

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1 irrigation spigot standing.
 2 Q: How far from the house was the tidal water?
 3 A: About three feet.
 4 Q: Take a look at page 18 and what is that a
 5 picture of?
 6 A: Again, my copy is terrible. I can't -- Oh, on
 7 the lower right-hand side of the photograph are
 8 the curved -- is the curved stairway going up
 9 to my front porch and the -- the areas between
 10 that and the -- the two palm trees there have
 11 water on them.
 12 Q: On -- at the time that photo was taken, were
 13 you able to walk to the back of the house
 14 around that side of the house?
 15 A: No.
 16 Q: Was the water up to these bushes?
 17 A: It was up to the bushes and to the corner of
 18 the stairway.
 19 Q: Take a look, if you would, at page 18. I tell
 20 you what, let's skip 18. I think these next
 21 few photos are so poor that it's difficult to
 22 deal with them. We have some better daytime
 23 pictures. Take a look, if you would, at page
 24 20, what does that depict?
 25 A: Page 20 or page 21?

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1 Q: 20.
 2 A: Again, that's dark. The photo is -- I can't
 3 tell you what it is. I believe this is the
 4 area across the lake on G tract. We kayaked
 5 over there to see what was happening. It's
 6 right by the breach of the dike.
 7 Q: Did you observe trees that were being submerged
 8 by the tidal waters?
 9 A: Yes.
 10 Q: Take a look, if you would, at page 21.
 11 A: I have it.
 12 Q: Did you observe that tree and it's roots in
 13 that condition?
 14 A: Yeah, that was on -- that was on G tract and it
 15 appeared that the tidal waters had undermined
 16 the -- the roots of that tree.
 17 Q: Take a look, if you would, at page 22. What
 18 does that depict?
 19 A: Well, on the bottom right corner is the back of
 20 the kayak and this is on G tract in a little
 21 inlet area where the tidal water is now going
 22 and there are a bunch of downed trees.
 23 Q: Trees that have fallen over and died from the
 24 change in conditions?
 25 A: I don't know whether they died because of the

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1 change in conditions, but they're certainly
 2 dead.
 3 Q: Take a look, if you would, at page 23. Have
 4 you observed ruts in the lakebed of the lake
 5 from the flow of tidal waters?
 6 A: Yes.
 7 Q: Are the ruts today much deeper than those
 8 depicted on page 23?
 9 A: It's hard for me to say. There -- it's still
 10 rutted, but I don't know by comparison whether
 11 they're deeper or -- or the same.
 12 Q: What does 24 depict?
 13 A: Twenty-four, again, is a photograph from my
 14 front porch. You can see the stairway coming
 15 up and it is a view from the front of the house
 16 across the lake with water in it.
 17 Q: Is that what the lake looks like when it's full
 18 of water?
 19 A: Yeah.
 20 Q: Take a look, if you would, at page 25.
 21 A: Yes, I have it.
 22 Q: And what is that a view of?
 23 A: It's the same thing, that's what the lake looks
 24 like when there's water in it.
 25 Q: Okay.

100 (Pages 397 to 400)

Page 401

1 A: It's taken from our back deck because our bird
2 feeder is up in the top right.
3 Q: Okay. So that's the view from your back deck
4 looking down the lake?
5 A: Yes.
6 Q: Now, was that photo taken before or after the
7 break in the dike?
8 A: I believe this was taken after the break in the
9 dike, but I don't see any marsh grass. It
10 hasn't -- hasn't grown. There are no birds in
11 the trees, so that suggests to me that it was
12 after the break in the dike.
13 Q: Okay. Take a look, if you would, at page 26.
14 A: I have it.
15 Q: Is that your view now for the vast majority of
16 the day from that same deck?
17 A: Yeah, that's our bird feeder, again, and that's
18 -- that's the view.
19 Q: Do you find that view disgusting and
20 distasteful?
21 MS. COLWELL: Objection, Your Honor.
22 THE COURT: Sustained.
23 Q: How do you find that view?
24 A: Ugly.
25 Q: What is the lake called by the people who

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1 reside around it?
2 A: The lake.
3 Q: After the break in the dike what's it called?
4 A: The mud pit.
5 Q: Take a look, if you would, at page 27, what is
6 that?
7 A: That is -- that appears to be the view from
8 Sally Haley's back yard.
9 Q: And what is 28?
10 A: That is a view from either the James backyard,
11 the Feron backyard, or the Haley backyard
12 looking out toward the dike.
13 Q: Take a look, if you would, at Exhibit 30, what
14 is that? Or page 30, I'm sorry.
15 A: A close-up of the mud.
16 Q: Have you noticed anything after the break in
17 the dike having to do with insects?
18 A: Yes, we have had tons more mosquitos than we
19 ever had before.
20 Q: Take a look, if you would, at page 31.
21 A: Yes.
22 Q: What is that?
23 A: That's what the lake looked like before the dam
24 broke with all the birds.
25 Q: And what is 32?

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1 A: That's a close-up of the birds up in the trees
2 across on G tract before the dike broke.
3 Q: What is 33?
4 A: These photographs, I believe, were taken by
5 Sally Haley or Martha James and they accurately
6 depict wood storks and other wading birds in
7 the lake before the dike broke.
8 Q: Take a look at the photo that's closest to the
9 number 33 on that page. Do you see two wood
10 storks in that picture?
11 A: I see one wood stork, but I don't see very
12 well.
13 Q: Can I give you a better copy?
14 A: Yes.
15 Q: No, closest to 31.
16 A: Oh, that -- that one. Oh, yes, in that -- I
17 had the wrong photo. Yeah, there are two wood
18 storks in that picture.
19 Q: And is the one on the left -- what does it
20 appear to be doing?
21 A: That appears to be nesting based on what I can
22 see.
23 Q: Take a look at page 34.
24 A: Yes.
25 Q: What do those four photos depict?

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1 A: Wood storks.
2 Q: And are those all around the lake?
3 A: This looks like the lake to me and I have
4 observed wood storks in the lake many times.
5 Q: Take a look, if you would, at page 48. No,
6 strike that. Save that for a different
7 witness. Take a look, if you would, at Exhibit
8 6.
9 A: Six. I have it.
10 Q: Okay. At some point did you take some
11 measurements of distances in the vicinity of
12 Garfield Park?
13 A: Yes.
14 Q: Tell the court what you did.
15 A: You asked us to get some photographs, by us, I
16 mean me and Martha James, that showed the
17 distance between the storm water inlets for
18 Garfield Park and the concrete pipe outlet
19 where they fed into and went into a part of the
20 former lake.
21 Q: Okay. What does the first page of that exhibit
22 depict?
23 A: That's where the -- the pipe feeds into.
24 Q: Feeds into the lake?
25 A: Yes.

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1 A: Yes, absolutely.
 2 Q: Are the balance of the pictures in Exhibit 8
 3 just pictures of the oysters that are adjacent
 4 to the dike?
 5 A: Yes, the view is from -- from basically the
 6 waters right out -- right adjacent to our house
 7 looking toward the west and the -- the greenery
 8 is -- is marsh grass and the big trees, I
 9 believe, are on G tract.
 10 Q: Okay. Now, the last page of Exhibit 8 ---
 11 A: Uh-huh (affirmative response).
 12 Q: --- can you tell me what that shows?
 13 A: This shows oysters growing in the marsh grass.
 14 Q: Okay. And is it your testimony that in the
 15 marsh grass behind your house even before you
 16 get to the oyster beds, the oysters are also
 17 growing in the marsh grass?
 18 A: Yes, they are.
 19 MS. COLWELL: Objection.
 20 Q: Can you tell me what crustaceans, if any, might
 21 be found in the marsh grass?
 22 A: Crustaceans are crabs, I believe.
 23 Q: Okay. Well ---
 24 A: Bi-valves ---
 25 Q: --- shellfish.

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1 A: Shellfish, oysters are in there; crabs are in
 2 there; little crabs.
 3 Q: Take a look, if you would, at Exhibit 9.
 4 A: I have it.
 5 Q: Can you tell me what that is a picture of?
 6 A: That is a picture of what it looks like when it
 7 rains about two blocks from my house. Garfield
 8 Park is to the left in that photo.
 9 Q: What is to the right?
 10 A: To the right is the golf clubhouse.
 11 Q: Okay. What direction does the water flow at
 12 that location?
 13 A: Down -- down the road, I believe.
 14 Q: That's all right, there's a couple different
 15 directions. You see the traffic -- the street
 16 sign there?
 17 A: Yes.
 18 Q: Okay. The water -- there's the main pool of
 19 water adjacent to the car. What direction does
 20 it flow after it hits that location?
 21 A: I don't know for sure.
 22 Q: Take a look at page two.
 23 A: Of that exhibit?
 24 Q: Yes.
 25 A: Yes.

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1 Q: Did you observe water flowing from the street
 2 in that picture?
 3 A: Yes.
 4 Q: Okay. What direction is it flowing?
 5 A: It appears to be flowing toward the lake.
 6 Q: What about the third page?
 7 A: I believe it depicts just a different view.
 8 There's the stop sign at the top of the page.
 9 Q: Now, go back to that first page if you could.
 10 Do you see the stream of water coming down the
 11 middle of Waveland Avenue?
 12 A: Yes.
 13 Q: Is there a ridge or a top of a hill by the
 14 entrance to the golf clubhouse?
 15 A: I don't know for sure, but it appears to be
 16 that way, otherwise the water would be all
 17 spread out.
 18 Q: Do you believe that your home site is worth
 19 less money today adjacent to a mud pit than
 20 adjacent to what you purchased, the lake?
 21 A: Yes.
 22 Q: Do you have any way to quantify the decrease in
 23 value?
 24 A: Not in particular dollars. I've never asked
 25 for or received an appraisal after the break in

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1 the dike. Common sense tells you that with a
 2 view of the mud, the house is worth less than
 3 a view of the water.
 4 Q: Without regard to the financial aspects of it,
 5 is it fair to say that the aesthetic value to
 6 you and your enjoyment of the house has
 7 lessened?
 8 A: It's non-existent at this point.
 9 Q: Tell me about plants -- freshwater plants that
 10 had a misfortune recently.
 11 A: After -- well, at the time when we finished the
 12 remodel of the house, we spent a good deal of
 13 time landscaping everything and between the
 14 driveway and the edge of the lake we planted a
 15 big stand of bog iris and camellias and azaleas
 16 and then some holly trees and grass in front
 17 and that sort of thing. After the dike broke,
 18 all of it died, including the ground cover that
 19 was there. We tried to replant a couple of
 20 things and it just didn't take, so now it's
 21 nothing. It's just a big blank area where --
 22 with mulch.
 23 MR. NORTH: I have no further questions.
 24 THE COURT: I think now is a good time to take a 10
 25 minute break before we go into this witness'

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1 the Exclusive Right to Sell Agreement and the
 2 Listing Agreement.
 3 A: Yes.
 4 Q: But I believe that you'll find that -- are
 5 these your initials right there on the bottom
 6 of the page?
 7 A: Yes.
 8 Q: And do you see in paragraph number nine, which
 9 the paragraph states and owner warrants that
 10 the owner has reviewed and completed the
 11 seller's property disclosure statement as
 12 required by South Carolina Code of Laws, as
 13 amended, Section 27-50-10, et. seq. Attached
 14 to and made a part of this agreement and all
 15 such information is accurate to the best of the
 16 owner's knowledge.
 17 A: Yes.
 18 Q: And that pertains to the -- actually, that
 19 relates back to the first sentence which states
 20 owner warrants that to the owner's knowledge
 21 there are no material defects, hidden or
 22 obvious, in or on the property which have not
 23 been disclosed to the broker in writing.
 24 A: Yes.
 25 Q: And you saw this before you signed that

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1 disclosure statement?
 2 A: Yes.
 3 Q: I have nothing further.
 4 MR. HABER: Nothing from the Department, Your
 5 Honor.
 6 THE COURT: Okay. Thank you, Mrs. North.
 7 MRS. NORTH: Okay. This exhibit is not complete. I
 8 don't know what happened to the front page of
 9 it.
 10 THE COURT: Mr. North, who do you intend to call as
 11 your next witness?
 12 MR. NORTH: Yes, I'd like to call David Feron.
 13 DAVID FERON, being duly sworn, testifies as follows:
 14 COURT REPORTER: State your name for the record.
 15 THE WITNESS: David Feron. F-E-R-O-N.
 16 MR. FERON - DIRECT EXAMINATION BY MR. NORTH:
 17 Q: Are you one of the petitioners in this action?
 18 A: Yes.
 19 Q: And you -- do you own or have you purchased
 20 lake-front property in the Rookery subdivision
 21 on Cat island?
 22 A: Yes.
 23 Q: Tell me about your property and when you
 24 purchased it.
 25 A: I purchased it in 1988, purchased two pieces.

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1 I swapped -- later on I sold one and bought the
 2 one next to me, so I really still have two
 3 pieces on the lake, just that I bought before.
 4 And we bought it because at the same time we
 5 bought another piece on Dolphin Point, which
 6 was on the creek, but what we wanted to do was
 7 to have a fishing place and a place that we
 8 could really enjoy living in. So originally we
 9 were going to build a house some place right
 10 here and on the -- on the lake really. But we
 11 -- we got -- my wife had seen another house out
 12 on St. Helena which she liked very much and it
 13 happened to come on the market at the same time
 14 that I retired. So we bought that because it
 15 had deep water and a creek and a dock and all
 16 those things that go with the fishing. And so
 17 we kept this because we felt that we'd want to
 18 move here some time after -- after I couldn't
 19 go fishing any more. Unfortunately, that
 20 happened more quickly than I wanted, but that's
 21 what we did. But we still kept these two
 22 pieces because they were special.
 23 Q: And in what way were they special to you?
 24 A: I mean, you just had a -- I'll tell you how
 25 special they were. My next door neighbor out

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1 on St. Helena who used to be fishing and he's
 2 a fellow from Georgia, and he said I was crazy
 3 to move. And he came and looked out that back
 4 door at the view and he said I can see why you
 5 moved. It was beautiful. It was -- it was --
 6 I don't want to say magical. That sounds too
 7 trite, but it really was a wonderful view.
 8 Q: And did you observe all forms of wildlife in
 9 the lake?
 10 A: I did and I even saw the big alligators kill
 11 the -- eat the little alligators out there. I
 12 saw all the birds that -- I cannot identify all
 13 the birds, but I saw, you know, birds all over
 14 and right in our back yard there used to be, I
 15 mean, ten -- about ten birds at night that used
 16 to perch up in there. You could hear them
 17 arguing with each other and actually -- one of
 18 them would come down and push the other guy
 19 over, but it was just a really nice place. And
 20 also, there were turtles and there were lots of
 21 raccoons and things like that.
 22 Q: For the sake of brevity, were you present and
 23 listening to the testimony of Pamela North?
 24 A: Yes.
 25 Q: Did you agree with her testimony and her

112 (Pages 445 to 448)

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1 observations of the lake?
 2 A: Yes.
 3 Q: If you were asked the same questions, would you
 4 have the same answers?
 5 A: Yes.
 6 Q: Have you had two appraisals done on your
 7 property, one before the dike break and one
 8 after?
 9 A: Yes.
 10 Q: And have copies of those appraisals been made
 11 available to counsel?
 12 A: Yes.
 13 Q: Okay. And in those appraisals, was the value
 14 of your house -- the improvements to the
 15 property almost identical?
 16 A: They were identical.
 17 Q: And do you remember the difference in value of
 18 just the lot itself?
 19 A: \$190,000.
 20 Q: Okay. And was it worth \$190,000 less after the
 21 dike break?
 22 A: Yes.
 23 Q: In the first appraisal, was the lot valued as
 24 lakefront property?
 25 A: Yes, it specifically said the lagoon and the

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1 lake -- you know, it was specifically aligned
 2 in the appraisal.
 3 Q: Okay. And did the appraiser who did that
 4 appraisal come out and visit the house ---
 5 A: Yes.
 6 Q: --- and see the -- the magical lagoon?
 7 A: Yes.
 8 Q: Okay. And with the second appraisal, did that
 9 appraiser also come out?
 10 A: Yes.
 11 Q: And did he see what you're currently living on?
 12 A: Yes.
 13 Q: And what was the -- do you remember the value
 14 of the lot in his opinion?
 15 A: It went down to \$598,000.
 16 Q: For the entire house and lot?
 17 A: Right, but the house value was still the same
 18 as the first assessment, the improvements.
 19 Q: And the difference in the lot value was
 20 \$190,000?
 21 A: (Nods head affirmatively).
 22 Q: Now, you have two lots, is that correct?
 23 A: Yes.
 24 Q: And is it your assumption and belief that the
 25 value of both of them would have gone down by

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1 about the same amount?
 2 A: Yes, I would think, yes, definitely.
 3 Q: Since the lake is no longer there, have you
 4 done anything about your view?
 5 A: Yes, we have left the back yard, except for a
 6 small portion natural, but we had trimmed
 7 everything down so that from the back screen
 8 porch where -- and behind it you could see the
 9 water at all times, even the palm tree, I cut
 10 it down to the center piece. And we could see
 11 the whole -- from our view, we could see the
 12 lake in front of us, not much to the right, but
 13 out to the dike and the -- the Coosaw River,
 14 they call it.
 15 Q: Are you able to see the lake now?
 16 A: I can see the mud; I can't ---
 17 Q: Okay.
 18 A: At high tide -- very high tide you can see it.
 19 Q: Have you let your vegetation grow to try and
 20 block some of that view?
 21 A: I let it all grow back up again and trimmed it
 22 off on the top, but I can't see the water. I
 23 can see out to the river looking out this way.
 24 We left that so we could at least see the
 25 river, but that's all.

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1 Q: When you say the river, you mean Cowen Creek?
 2 A: Cowen Creek, yes, sir.
 3 Q: Okay. Have you had plant life on your property
 4 die?
 5 A: Yes.
 6 Q: Is it fair to say everything along the water's
 7 edge died shortly after the dike broke?
 8 A: I don't think everything died, but there was
 9 quite a few things that died when the water
 10 came -- the tidal water came in -- the marsh --
 11 or the river water, I guess.
 12 Q: Do you have any large trees that are dying or
 13 dead?
 14 A: On the vacant piece of land, yes. There's two
 15 trees that are dead and one that looks like
 16 it's dying. And then there's some palm trees
 17 also that look like -- at least one is dead.
 18 Q: And has all that changed after the dike broke
 19 and the salt water started coming in?
 20 A: As far as I know, yes. I mean, I don't check
 21 those all the time, but certainly they weren't
 22 when we first moved back or built the house.
 23 Q: Okay. Have you observed what portion of the
 24 day there might be any water in the lakebed?
 25 A: I would say if you're asking me how much of the

113 (Pages 449 to 452)

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1 THE COURT: If you'll face the court reporter, 2 she'll swear you in. 3 SALLY HALEY, being duly sworn, testifies as follows: 4 COURT REPORTER: State your name for the record. 5 THE WITNESS: Sally Haley. 6 MS. HALEY - EXAMINATION BY MR. NORTH: 7 Q: Can you tell the Court about the property that 8 you purchased on the Cat Island lake? When you 9 purchased it. 10 A: When I purchased it was 1994 and it was a pond. 11 We always called it a pond, so pond, lake, 12 front lot. 13 Q: And you purchased that with your husband? 14 A: Yes. 15 Q: And have resided there ever since? 16 A: Yes. 17 Q: You've heard the testimony of Pamela North? 18 A: I have. 19 Q: And you've heard David's testimony? 20 A: Yes. 21 Q: And if you were asked the same questions, would 22 you have the same answers? 23 A: I would. 24 Q: I would like you to tell the Court in your own 25 words why you believe this lake was so unique	1 A: The lake. And was that designation by the 2 South Carolina Department of Natural Resources? 3 A: It was by the national -- it was National 4 Wildlife Federation. 5 Q: Okay. And do you have a sign in your backyard 6 from the Department of Natural Resources of 7 South Carolina? 8 A: No, it's from the National --- 9 Q: Okay. 10 A: --- Wildlife Federation. 11 Q: Okay. So you have two signs, one's --- 12 A: Oh, the one in the backyard is just an 13 alligator warning because at one point the lot 14 next to us was for sale and I happened to see 15 some people wading out into the water one day 16 who were visiting the lot and I thought, you 17 know, this is not good because there are 18 alligators out there in the water. And so I 19 went out to caution them and then I thought 20 well, I'll just put this sign up because people 21 were coming to view the lot next door. 22 Q: Okay. Can you tell the Court the various types 23 of birds that you've observed in the lake? 24 A: I've seen anhingas and comerants and great 25 blues and little blues and green backs and
Page 462	Page 464
1 and so special to you? 2 A: Well, first of all, it was an absolutely 3 gorgeous view. It had more birds than I could 4 ever imagine seeing in one place in my life. 5 I mean, you know, everything from Anhingas to, 6 you know, wood storks, wood ducks, you know, 7 just a whole, you know, everything imaginable. 8 We had otters; I saw two minks, obviously not 9 in the water, water's edge. But it was just -- 10 it was a place we had hoped to find our whole 11 lives and did. 12 Q: Did you often observe deer coming down and 13 drinking from the water? 14 A: Yes, I mean, they were -- they would walk 15 through the water. 16 Q: Okay. Tell me what background you have with 17 regard to wildlife and nature matters. 18 A: I've taken a lot of courses from the University 19 just for retirees about wildlife and birds and 20 I joined the National Wildlife Federation and 21 my house was designated a wildlife habitat in 22 part because of the pond. 23 Q: Because of the what? 24 A: Pond. 25 Q: Okay.	1 tri-colors and ibis and egrets and wood storks 2 and wood ducks, buffleheads, mergansers, a lot 3 of the birds that I saw were migratory birds 4 that would just come through in the wintertime. 5 We wouldn't see them in summer. We had wood 6 ducks raise babies on the pond, the ones that 7 the alligators didn't eat. And -- pelicans 8 would come in in the wintertime when it was 9 really cold. 10 Q: Did you keep a journal of all your 11 observations? 12 A: I did, for many years, because it was just so 13 unusual and, you know, nothing I had ever seen 14 before and it just -- it kept me entertained 15 for hours. 16 Q: Okay. What about your husband, was it 17 important to him? 18 A: It was very important to him. 19 Q: Did he ask that it be noted in his obituary? 20 A: I don't know that he asked, but he would have 21 liked that. 22 Q: Have you ever taught a naturalist course? 23 A: No, not really. 24 Q: Tell me your impression of the lake -- the 25 lakebed as it appears to you today?

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1 A: Well, it's like everybody else, it's a big mud
2 hole. And the only difference between my mud
3 hole and everybody else's mud hole is because
4 I'm at the far end, I get -- when the tide
5 comes in and then goes out, I'm left with
6 Styrofoam coolers, foam bumpers from boats,
7 building lumber, bottles, cans, any -- you
8 know, anything that floats in on the tide gets
9 stuck in my backyard.
10 Q: Okay. I'm going to hand you Exhibit 63 and
11 directing your attention to the last two pages
12 of that exhibit. Do you recognize those as
13 photos from your backyard?
14 A: I do.
15 Q: Okay. And do you see our lovely marsh meadow
16 off in the distance?
17 A: Far away.
18 Q: Okay. But is ---
19 A: Right now, though, it looks like just weeds
20 because it's all, you know, brown and ---
21 Q: It's all brown?
22 A: Yeah, yucky looking.
23 Q: But in terms of your view out of your house,
24 does that second to the last page give a good
25 depiction of what it looks like?

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1 A: Definitely.
2 Q: And is the last page, then, a close-up of that
3 view?
4 A: It certainly could be.
5 Q: Well, you see the three ---
6 A: Yeah.
7 Q: --- the four stakes that are at the top of each
8 of those photos?
9 A: Oh, yeah, I do. I do, yes.
10 Q: Okay. Would you agree that that is a close-up
11 photo of your view?
12 A: Uh-huh (affirmative response). It certainly
13 is.
14 Q: Okay. Have you done anything to try and avoid
15 that view?
16 A: Well, we don't -- we don't -- well, I say we,
17 before my husband died, we were not
18 entertaining that much on our deck, which we
19 used to do a lot just because it was not very
20 attractive, and we don't use our screen porch
21 as much as we used to. But other than that,
22 no.
23 Q: Does your house have very dramatic views of
24 either the lake or the mud pit, whichever, at
25 any point in time?

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1 A: We have -- we have glass all across the back of
2 the house.
3 Q: Okay. When visitors come into your house, did
4 they used to see this beautiful lake?
5 A: A story that I love is my sister-in-law, the
6 first time she came to visit, she was thinking
7 about buying a house on Cat Island, which she
8 subsequently did. She walked into the house
9 and burst into tears because she said it was
10 the most beautiful view she'd ever seen.
11 Q: Okay. And because of all of those windows and
12 all that glass, is the house now far less
13 attractive to your guests?
14 A: Definitely.
15 Q: Do you find that you keep the drapes pulled to
16 not see the view?
17 A: I don't have drapes.
18 Q: Oh. Then I need a better assistant. I have no
19 further questions.
20 THE COURT: Mr. Haber?
21 MS. HALEY - CROSS EXAMINATION BY MR. HABER:
22 Q: Hi, Ms. Haley, nice to see you again.
23 A: Nice to see you.
24 Q: I just have a couple questions. Do you
25 remember -- we met during your deposition down

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1 in Beaufort.
2 A: Uh-huh (affirmative response).
3 Q: Do you remember during that deposition you had
4 stated that some of the shrubbery in your
5 backyard adjacent to the pond has died, but
6 that you are unsure whether it was because of
7 salt water or old age?
8 A: I don't think it was old age because it was --
9 it was small -- it was volunteer greenery. It
10 was Chinese tallow trees and yaupon holly and
11 it could be either, but, I mean, the fact that
12 it died after the infringement of the salt
13 water, it seems logical that that's what fueled
14 it.
15 Q: Okay. Well, let me get you to read a portion
16 of your deposition.
17 MR. HABER: May I approach, Your Honor?
18 THE COURT: Yes.
19 MR. HABER: Thank you.
20 Q: I'm handing you your deposition that we took
21 down in Beaufort, South Carolina. If you could
22 look at page 13 and read to the Court from
23 number -- see line 12 to line 19.
24 A: Have you suffered any property damage resulting
25 from the influx of tidal waters following the

117 (Pages 465 to 468)

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1 don't have a water view any more. 2 Q: You have a relatively high house, don't you? 3 A: Correct. 4 Q: And from your house, did you have excellent 5 views down the lake? 6 A: Yes. 7 Q: And now you have excellent views down the mud 8 pit? 9 A: That's correct. 10 Q: Do you feel that you've lost the aesthetic 11 value of that property to a large degree 12 because of the loss of the lake? 13 A: Certainly in the front, that's correct. 14 Q: Do you feel that you've also lost economic 15 value because of that view? 16 A: I would expect, but I have nothing to measure 17 that by. I've had no appraisals made since we 18 purchased the house. 19 Q: Is it fair to say that the view with the water 20 in the lake with the wildlife was far more 21 attractive than what you feel you have now? 22 MS. SHAHID: Object to Mr. North testifying, 23 leading the witness and not questioning. 24 THE COURT: Sustained. Mr. North, if you -- you 25 know what. I am overruling that objection so	1 Q: Okay. And you've sat here, haven't you, 2 through the testimony this afternoon of all of 3 the other petitioners? 4 A: That's correct. 5 Q: And do you agree with every single thing you've 6 heard them testify to? 7 A: Yes. 8 Q: If you were asked all the same questions over 9 the course of the next hour, would you give the 10 same answers? 11 A: Yes. 12 Q: I have no further questions. 13 THE COURT: Thank you. Mr. Haber? 14 MR. BRUNING - CROSS EXAMINATION BY MR. HABER: 15 Q: Hi, Mr. Bruning. 16 A: Hello. 17 Q: We didn't have the pleasure to meet in 18 Beaufort, but it's --- 19 A: I was out of town. 20 Q: Yes, sir. You said you wanted to move down to 21 Beaufort because you wanted to live on the 22 water, is that correct? 23 A: That's correct. 24 Q: Is your house still currently on the water? 25 A: Yes, it is.
Page 474	Page 476
1 that we can move this along. 2 MS. SHAHID: Okay. Thank you, Your Honor. 3 Q: Tell the Court in your own words what the loss 4 of the lake has meant to you and your family. 5 A: Well, I think it's not just me and the family; 6 I think it's living where we -- where we do it 7 also has impact on a lot of other people in the 8 community. One of the things that we found 9 after we moved in was the number of people that 10 came down, stood there, looked at the lake for 11 a good period of time, left. There was a 12 couple that was in Garfield Park that used to 13 come at last once a day and the husband was in 14 a motorized wheelchair, but they would come 15 every day. And seeing that, we had put a bench 16 out there and people would stop during their 17 walks, sit down, look at the -- at the lake. 18 We many times sat there and looked at the lake 19 and observed the wildlife and when the lake 20 disappeared, we found that the -- that the 21 bench was sitting in a few inches of water at 22 times and so it's gone and not being used by 23 ourselves and other people in the community. 24 So from our standpoint, yes, the -- it's had a 25 basic impact on where we live.	1 Q: Still have your dock? 2 A: Yes, I do. 3 MR. HABER: No further questions, Your Honor. 4 THE COURT: Okay. 5 MR. BRUNING - CROSS EXAMINATION BY MS. SHAHID: 6 Q: Mr. Bruning, I'm just going to show you a 7 document just to orient your property. This is 8 a document we prepared to use in your 9 deposition, but I don't think we ever got the 10 opportunity to depose you. Does that shaded 11 lot appear to be your property? 12 A: Yes, it does. 13 Q: Okay. Let me show Mr. North, if you don't 14 mind. Okay. I want to mark this as 44 and 15 offer it into evidence. I think 44 is my last 16 number. 17 MR. HABER: No objection from the department, Your 18 Honor. 19 THE COURT: Mr. North, any objection to it? 20 MR. NORTH: Oh, I'm sorry; no, Your Honor. 21 THE COURT: Okay. It's admitted. 22 (Cat Island's Exhibit Number 44 was admitted into 23 evidence.) 24 MS. COLWELL: Mary, I think that's actually marked 25 2B, which is already in.

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1 Q: Mr. Lyle, do you remember in the letter that
2 was sent to Mr. Meyer recommending that he fix
3 the dike, some discussion about potential
4 mitigation credits?

5 A: Mitigation credits? Yes, sir.

6 Q: Okay. Can you tell the court what it meant by
7 a mitigation credit?

8 A: My understanding was that because certain
9 entities have the need to impact critical area,
10 in order for them to be permitted to impact
11 critical area, they need to purchase mitigation
12 bank credits. And there's not a bank out there
13 of mitigation credits to my knowledge for -- to
14 create new critical area. And so we were
15 trying to think of options we -- I'd heard from
16 a wetlands consultant that there may be a
17 project that was in need of credits, and that
18 the re-establishment of previously prior
19 critical area, letting it go back to its
20 natural state, there may be the opportunity to
21 sell wetland mitigation credits.

22 Q: To some other developer?

23 A: I think specifically, it was the federal
24 government. There was a Marine Corps station,
25 Beaufort or Paris Island, one of those

1 A: We didn't pursue it, and I haven't heard any
2 discussion of it since. So I don't know if
3 that had any bearing on Mr. Meyer's desire to
4 not come back out here and spend a ton of money
5 again to try to fix this dike.

6 Q: Okay. Was there some meeting with some
7 representative of the air station?

8 A: No, sir.

9 Q: Or with any of their engineers?

10 A: No, sir.

11 Q: Are you aware of any discussion with OCRM
12 personnel or Corps of Engineer personnel about
13 mitigation credits?

14 A: Zero.

15 Q: Are you saying there have been none or ---

16 A: I am not aware.

17 Q: --- you are not aware?

18 A: I am not aware of any.

19 Q: Okay. Do you recall testifying last summer
20 that if you had tidal water coming on to your
21 lot, you would consider that an adverse
22 consequence?

23 A: I do recall that. That was after a barrage of
24 questioning. That was my final statement.

25 Q: Okay. I'm going to hand you what's been marked

Page 570

Page 572

1 entities, they were going to have to do
2 something rather extravagant to create wetlands
3 when we had wetlands on site.

4 Q: So are you saying that the developer could then
5 exchange a mitigation credit for the Cat Island
6 Lake, and so that the federal government to
7 make up for loss of wetlands in connection with
8 the Air Corps station?

9 A: That was the option we were thinking about.

10 Q: Okay. And tell me the status of that.

11 A: It was discussed, never brought up again. I
12 haven't -- we had one meeting with Mr. Meyer at
13 Cat Island trying to think of fix options, and
14 that was just one item on there. You know, if
15 we maybe could sell wetland mitigation credits,
16 so that's ---

17 Q: Okay. Is it -- are you saying that by having
18 the lake changed to a saltwater marsh, the
19 developer has some credits that possibly could
20 be utilized in the future?

21 A: That was our thought at the time, yeah.

22 Q: Okay. And was that the thought when it was
23 decided to go ahead and move forward with the
24 inline filter system and have the lake revert
25 to a saltwater marsh?

1 as Exhibit Number 2. Do you recognize that as
2 a copy of the letter from DHEC approving the
3 retrofit permit and issuing its coastal
4 consistency determination?

5 A: I do.

6 Q: Okay. Take a look if you would at the coastal
7 consistency determination, which is the fifth
8 page of that exhibit.

9 A: Fifth page? Yes, sir.

10 Q: Okay. Do you recognize that as the coastal
11 consistency determination in connection with
12 the retrofit?

13 A: Yes.

14 Q: Okay. Now, is it fair to say that every permit
15 that you deal with in Beaufort County has to
16 have a coastal consistency determination?

17 A: I believe if they qualify based on acreage. I
18 could be wrong.

19 Q: Okay. In any event, have you many, many times
20 received a coastal consistency determination in
21 connection with various projects?

22 A: I have.

23 Q: And would you recognize this page as part of
24 basically a form where all of these
25 determinations have similar language?

143 (Pages 569 to 572)

Page 601

1 Q: Okay. Well, let's assume that those are all
2 truly and accurately depicting a correct
3 measurement. Would you agree then that that
4 inlet would be 40 feet upstream of the 24 inch
5 outlet?
6 A: Yes.
7 Q: Okay. And if it's that far out, would you
8 agree that if you are then deducting from your
9 measurement the 240 or 250 feet that is
10 calculated before you get to that point, that
11 your high tide measurement as shown on Exhibit
12 72 would be 750 or 800 feet?
13 A: 1,275 minus 240.
14 Q: No. You're going to a further away. I'm
15 talking about the one where you show a high
16 tide measurement, not the low tide measurement.
17 A: I normally ---
18 Q: High tide measurement, would you agree that
19 that distance, if corrected for the last inlet,
20 would be less than 800 feet?
21 A: Yes, along that route that we merely
22 superimposed and illustrated.
23 Q: Okay.
24 A: The dimension.
25 Q: Now, are you familiar with some regulations

Page 602

1 that say that if you are within 1,000 feet --
2 if the development is within 1,000 feet of
3 oyster beds, then you have certain retention
4 requirements?
5 A: I do.
6 Q: Okay. Does that regulation talk in terms of
7 the circuitous route of water flow, or does it
8 simply say 1,000 feet from the development to
9 the oyster beds?
10 A: Without reading it, I couldn't say. But I --
11 downstream of the development.
12 Q: Take a look, if you would, in the book in front
13 of you at Exhibit 3.
14 THE COURT: What was that exhibit?
15 MR. NORTH: Exhibit 3, Your Honor.
16 THE COURT: Thank you.
17 A: Yes, sir.
18 Q: Within Exhibit 3, flip to page 3 if you could.
19 A: Yes.
20 Q: Do you see in paragraph 11 the definition of a
21 detention structure?
22 A: I do.
23 Q: And the requirement that a detention structure
24 be able to store, runoff, and release at
25 controlled rates?

Page 603

1 A: I do.
2 Q: Okay. Flip if you could to page 8. Do you see
3 there 72-302 that deals with exemptions,
4 waivers, and variances?
5 A: I do.
6 Q: And if you would turn two more pages to page
7 10. Do you see subsection B of that regulation
8 that deals with waivers?
9 A: I do.
10 Q: Under B2, do you see that a project can be
11 eligible for a waiver or variance of storm
12 water management for water quantity control if
13 the applicant came demonstrate that the
14 proposed project will have no significant
15 adverse impact on the receiving natural
16 waterway or downstream properties?
17 A: Yes.
18 Q: Would you agree that the Petitioners home sites
19 are downstream properties?
20 A: Their properties are downstream.
21 Q: Downstream from Garfield Park.
22 A: Yes.
23 Q: Okay. And you've already acknowledged, I
24 believe, that having tidal flows would be an
25 adverse impact; is that correct?

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1 A: Yes.
2 Q: Yes. And would you agree under this section
3 that the adverse impact is not limited to
4 impacts from storm water, it's impacts from the
5 proposed project?
6 A: All in relation to storm water. Does the
7 increase in storm water volume discharge from
8 the development have an adverse impact on the
9 downstream property owners ---
10 Q: Can you point out where in the wording of this
11 regulation all that talk about from storm water
12 comes from?
13 A: A project may be eligible for a waiver or
14 variance from storm water management for water
15 quantity control. Storm water quantity.
16 Q: Yes. Unless the project has a significant
17 adverse impact on downstream properties; is
18 that correct?
19 A: The way I understand it is that if there's a
20 water body downstream that's capable of
21 accepting storm water increased rates and
22 volume, that a waiver is eligible, and that's
23 for storm water quality control.
24 Q: Would you agree that any project that
25 contemplates leaving that dike open to tidal

151 (Pages 601 to 604)

Page 605

1 flows will result in the adverse impacts to --
 2 of tidal surge or tidal flow on the Petitioners
 3 property as we talked about this morning?
 4 A: How ---
 5 Q: Let me reword ---
 6 A: Yeah, please.
 7 Q: Let me reword the question for you. Would you
 8 agree that leaving the dike open in any
 9 retrofit, whether it's inline filters or
 10 anything else, will result in the same adverse
 11 consequence to homeowners resulting from tides
 12 being able to come upon their property?
 13 A: The tides have the ability to reach upon their
 14 property. And what material damage it is, I'm
 15 unsure of, and I've not been made aware of.
 16 Q: Understood.
 17 A: Okay.
 18 Q: Take a look, if you would, at page 28.
 19 A: Is that Exhibit 3?
 20 Q: Yes. Would you agree that these regulations
 21 apply to the retrofit?
 22 MS. SHAHID: My pages aren't numbered. Can you tell
 23 me which regulation? 72 -- I mean, just what's
 24 on the page you're looking at?
 25 MR. NORTH: Your Honor, are you pages numbered?

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1 THE COURT: Yes, they are.
 2 MR. NORTH: I thought all of them were. Unless yours
 3 is some -- oh. Are you sure?
 4 MS. SHAHID: Your respondent Exhibit 3 ---
 5 MR. NORTH: Okay.
 6 MS. SHAHID: --- you removed the page numbers from
 7 when copied.
 8 MR. NORTH: I didn't remove them. They evidently
 9 got copied before they got numbered.
 10 MS. SHAHID: Okay.
 11 MR. NORTH: If I'd have thought of it, maybe.
 12 MS. SHAHID: If you would just tell me which reg,
 13 numbered reg, and I'll ---
 14 MR. NORTH: I would be happy to. It's 72-307.
 15 MS. SHAHID: Okay.
 16 MR. NORTH: Specific design criteria minimum
 17 standards and specifications.
 18 MS. SHAHID: Okay.
 19 MR. NORTH: And then within that, it is subsection
 20 I(3) E(2).
 21 MS. SHAHID: Got it.
 22 Q: Would you agree that these regulations apply to
 23 the retrofit project?
 24 A: To clarify, page 27I ---
 25 Q: 28.

Page 607

1 A: Right. But that starts out the section. It
 2 defines what is on 28, and that is -- it's
 3 discussing storm water management, sediment
 4 erosion control, plan for land disturbing
 5 activities greater than two but less than five
 6 acres, which are not part of a larger common
 7 plan of development or sale shall contain the
 8 following is applicable, and it's talking about
 9 site plans, storm water management calculations
 10 ---
 11 Q: Would you agree that the requirements with
 12 regard to discharge velocities applicable to
 13 the retrofit would be these or a higher
 14 standard because it's a great -- project
 15 greater than five acres? Let me ---
 16 A: It just says it's -- yeah, please rephrase that
 17 question.
 18 Q: Without getting hung up on the exact wording,
 19 would you agree that the regulations applicable
 20 to this project require that discharge
 21 velocities of storm water for a 10-year 24 hour
 22 storm event have the velocity reduced to a non-
 23 erosive velocity flow?
 24 A: Yes.
 25 Q: Would you agree under -- on the next page under

Page 608

1 72-308 that the permittee of a storm water
 2 permit has a duty of maintenance to maintain
 3 the components of the storm system, storm
 4 treatment system, that has been approved?
 5 A: Yes.
 6 Q: Take a look, if you would, at Exhibit 19. Do
 7 you have any knowledge -- first of all, do you
 8 have any knowledge with regard to whether or
 9 not the oysters in Chowan Creek have any
 10 special designation?
 11 A: No, sir.
 12 Q: Do you know whether or not they are officially
 13 recognized shellfish harvesting beds?
 14 A: I think the waterway is open for harvesting.
 15 Q: Okay. And what does that mean with regard to
 16 discharges of storm water?
 17 A: What does that mean?
 18 Q: Would the requirements having to do with
 19 shellfish areas that are open to harvesting
 20 include a requirement that the water quality
 21 not be degraded?
 22 A: I would assume so. That's why ---
 23 Q: Are you familiar with an anti-degradation ---
 24 A: No, sir.
 25 Q: --- ordinance or regulation?

152 (Pages 605 to 608)

Page 745

1 Q: Would you agree that there are many vantage
2 points around the lake where you can look
3 across the lake and see nothing but mud at low
4 tide?
5 A: Not any more, no.
6 Q: Take a look, if you would, I'll hand you an
7 exhibit. I'm handing you what has been marked
8 as Exhibit 63 and I represent to you that these
9 are photographs that were taken last Friday of
10 the Cat Island lake. And my question would be
11 is that consistent with your observations of
12 the Cat Island lake that you have made even the
13 ones most recently?
14 A: Yes, I would.
15 Q: Okay. And are you familiar with Bellamy Curve
16 in Beaufort?
17 A: I am.
18 Q: Okay. And would you agree that at Bellamy
19 Curve there is a huge mudflat that would expand
20 for blocks that has been a mudflat for as long
21 as you've lived in Beaufort?
22 A: Yes.
23 Q: Why is it that some areas grow grass and others
24 don't?
25 A: It could be a number of factors, probably is

Page 746

1 the -- probably the water elevation over the
2 mud at high tide.
3 Q: Because the elevation is too high, you mean?
4 A: Yes.
5 Q: Okay. Would you agree then that the areas that
6 are closest to the dike where that water would
7 be -- well, first of all, would you agree that
8 the areas closest to the dike would be the
9 deepest portion of the lake?
10 A: Yes.
11 Q: And would you agree that those areas may well
12 never have spartina grass because of that
13 elevation?
14 A: I wouldn't say that, no.
15 Q: Okay. Is it quite possible, though?
16 A: Anything's possible but.
17 Q: Wouldn't you assume that after four and a half
18 or actually more than four and a half years
19 that if spartina grass was going to grow at
20 those locations, it would have started the
21 process?
22 A: Yes.
23 Q: Thank you. I'm going to hand you what's been
24 marked as Exhibit 63, no, I'm sorry, not 63 --
25 well, first of all, is it fair to say you've

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1 been familiar with the Cat Island lake for
2 decades?
3 A: I wouldn't say decades.
4 Q: You've had your position in Beaufort County
5 working for the Coastal Council for 25 years as
6 I understand?
7 A: That's correct.
8 Q: Okay. As a part of that, didn't -- well, tell
9 me, when did you first become familiar with
10 your employment or personally with the
11 characteristics of the Cat Island lake?
12 A: Well, I've known about the impoundment for even
13 prior to work because I have friends who used
14 to duck hunt over there. But from a
15 professional or a working standpoint, probably
16 not until I started working more in some of the
17 dock permits in the immediate area that I
18 became associated with the lagoon system here.
19 Q: Would you agree that that area, for most of the
20 time that you've been familiar with it, was
21 full of wood storks and egrets and blue herons
22 and various birds that wade in the shallow
23 waters to feed them?
24 A: Yeah, I had seen those type of birds there on
25 occasion, yes.

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1 Q: And did you see that the trees surrounding,
2 especially on G tract, the south side of the
3 lake, were filled with bird nests?
4 A: I did see a lot of birds in the trees. I don't
5 really know about the nests or not, but I did
6 see the birds.
7 Q: Take a look, if you would again, at Exhibit
8 Number 1. And turn to page 31.
9 A: (Witness does as requested.)
10 Q: Would you agree that that what's the lake has
11 historically looked like before the dike failed
12 with the population of birds depicted in
13 exhibit or page 31?
14 MR. HABER: Objection, Your Honor. I believe this
15 has all been asked and answered.
16 THE COURT: I'm going to allow it, Mr. Haber. Go
17 on.
18 A: Would you repeat the question, please?
19 Q: Yes. Would you agree that Exhibit 31 is
20 consistent with your observations over the
21 years of the bird population in the Cat Island
22 lake?
23 A: Yes.
24 Q: And would you take a look at 32 if you would.
25 Would you agree that that photo is consistent

187 (Pages 745 to 748)

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1 with your prior observations of the wildlife
 2 that inhabited the trees around the Cat Island
 3 lake?
 4 A: Yes.
 5 Q: Take a look, if you would, at the photos
 6 quickly on 33 and 34. Are those photos all
 7 consistent with your observations in the past
 8 of wildlife around the Cat Island lake prior to
 9 the breach of the dike?
 10 A: Yes.
 11 Q: And is it fair to say that you recognize that
 12 many of those pictures are pictures of wood
 13 storks?
 14 A: Yes.
 15 Q: Would you agree that with the water gone that
 16 those birds would find other places to inhabit?
 17 A: Yes.
 18 Q: Now, you talked about not observing during your
 19 visit any change in the freshwater wetlands, is
 20 that correct?
 21 A: That's correct.
 22 Q: And was that done at the point in time that Mr.
 23 Geer was evaluating, first evaluating his
 24 stormwater permit application?
 25 A: I believe so, yes.

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1 Q: Would that be back in the 2010 or 2011 time
 2 period?
 3 A: About 2011 timeframe.
 4 Q: Okay. Do you recall in your memo to Mr. Geer
 5 noting on page one that you were talking about
 6 the freshwater wetlands surrounding the Cat
 7 Island lake? Well, let me ask you. Do you
 8 have Department Exhibit 5 in your hands?
 9 A: I do.
 10 Q: Okay. And do you see in the second paragraph
 11 that you're talking about the freshwater
 12 wetlands surrounding the lake?
 13 A: I make reference to the wetland that is located
 14 north of Sheridan Road, .14 acres.
 15 Q: And you say you make the observation to Mr.
 16 Geer that you have not observed any tidal
 17 exchange. But isn't it fair to say that you
 18 also state in this memo that you've not been to
 19 the area on an extreme high tide to determine
 20 how far the salt intrusion may extend?
 21 A: That's correct.
 22 Q: And with regard to tree die back, you note that
 23 the dead trees that you observed were Chinese
 24 tallow?
 25 A: That's correct.

Page 751

1 Q: Okay. Is it fair to say that you did observe
 2 a large number of dead Chinese tallow?
 3 A: Yes, I did.
 4 Q: Okay. And is Chinese tallow a freshwater
 5 vegetation?
 6 A: It's in a base of species that basically can be
 7 found in most type situations, either uplands
 8 and/or wetland areas.
 9 Q: But not saltwater areas?
 10 A: Not saltwater areas.
 11 Q: Okay. And did you then recommend to Mr. Geer
 12 that an evaluation be made to determine the
 13 amount of tidal influence into that wetland
 14 area?
 15 A: That's correct.
 16 Q: Now, you're not suggesting, are you, that it
 17 would be a good idea to flood freshwater
 18 wetlands with saltwater, are you?
 19 A: It would probably create a change in vegetation
 20 types.
 21 Q: Okay. And would that be an impact to
 22 freshwater wetlands that would be barred by the
 23 regulations?
 24 A: I don't see how. It's still a wetland area.
 25 Q: Pardon?

Page 752

1 A: It's still a wetland. I don't think that it
 2 would be something that we would consider to be
 3 intrusive.
 4 Q: Okay. Are you aware of any regulations that
 5 would bar negative impacts to freshwater
 6 wetlands?
 7 A: I can't recall of anything that -- no.
 8 Q: In doing your work, do you proceed on the
 9 assumption that as long as it stays a wetland,
 10 that's what you're looking to accomplish?
 11 A: Yes.
 12 Q: Whether it's fresh or salt to you, does it have
 13 a material distinction in terms of your goals?
 14 A: Well, it's -- most of my goals are concerned
 15 with critical area salt permitting and the
 16 amount of influence we have with freshwater
 17 wetlands through Corps permit certifications
 18 generally is something totally different than
 19 what we do with the critical area.
 20 Q: Say that again, I didn't follow that.
 21 A: Yeah. We're looking at -- well, it's looking
 22 at two different areas right here. Primarily,
 23 I deal with critical area permitting, which is
 24 salt and brackish waters and the permitting
 25 influence that we have would be through

188 (Pages 749 to 752)

DHEC BOARD REVIEW CONFERENCE
August 9, 2012

DHEC PERMIT NUMBER SCR10N463

MATERIALS SUBMITTED ON BEHALF OF OBJECTING PARTIES:

Kenneth Bruning

Janet Bruning

David Feron

Mary Feron

Byrnal Haley

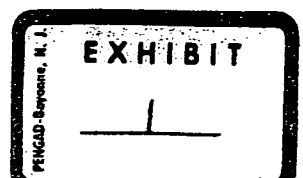
Sallie Haley

Don Haarmeyer

Martha James

John North

Pamela North



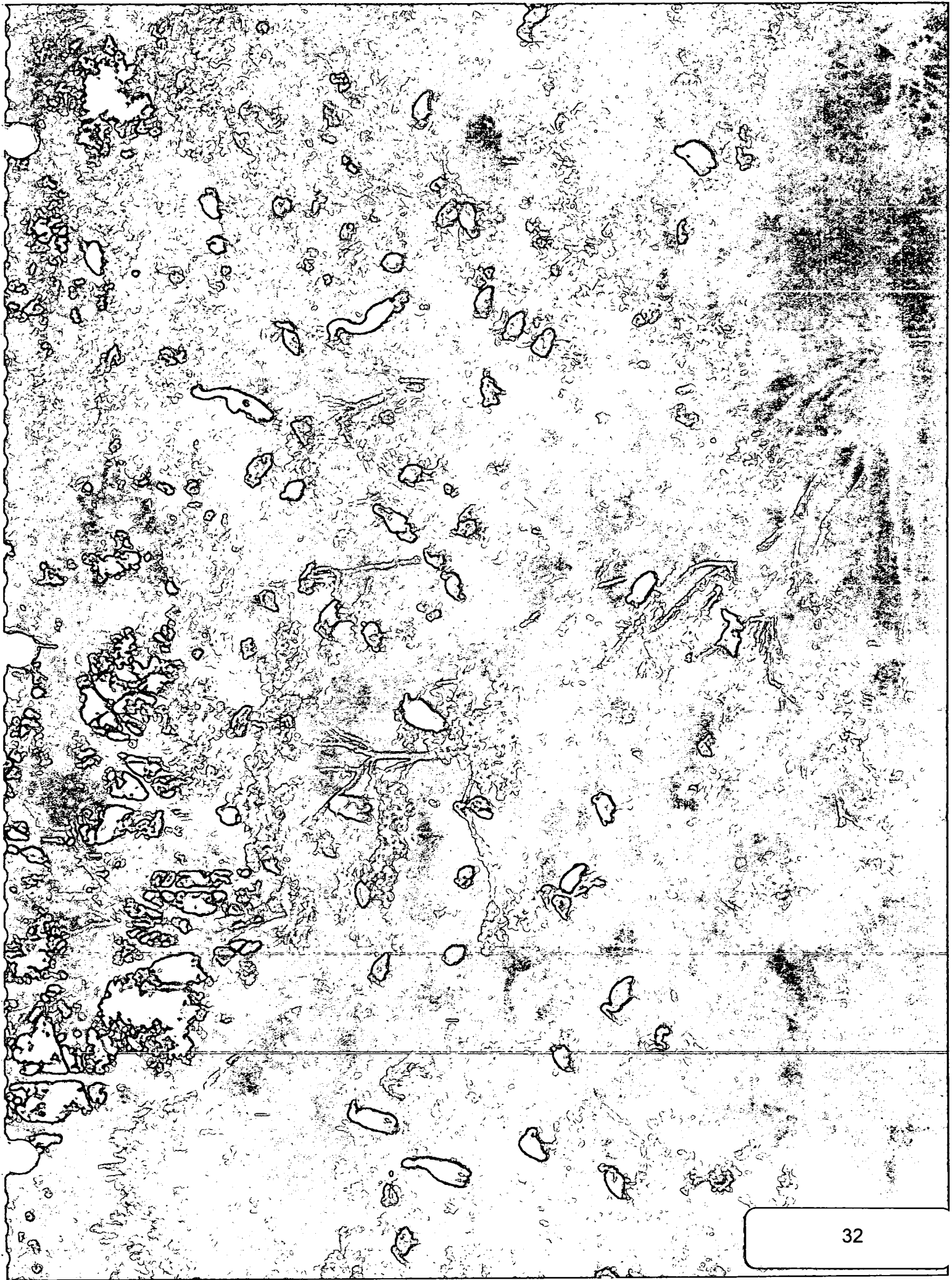
















SOUTH CAROLINA DEPARTMENT OF
HEALTH AND ENVIRONMENTAL CONTROL



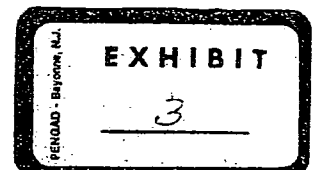
Standards for Stormwater Management and Sediment Reduction
Regulation 72-300 thru 72-316

June 28, 2002

Bureau of Water

DISCLAIMER

This copy of the regulation is provided by DHEC for the convenience of the public. Every effort has been made to ensure its accuracy; however, it is not the official text. DHEC reserves the right to withdraw or correct this text if deviations from the official text as published in the State Register are found.



72-300. Scope.

- A. Stormwater runoff is a source of pollution of waters of the State, and may add to existing flooding problems. The implementation of a statewide stormwater management and sediment control program will help prevent additional water quantity and quality problems and may reduce existing problems.
- B. Stormwater management and sediment control plan approvals are necessary prior to engaging in any land disturbing activity related to residential, commercial, industrial or institutional land use which are not specifically exempted or waived by these regulations.
- C. To the extent possible, the Commission intends to delegate the provisions of these regulations to local governments. Those program provisions which are subject to delegation include stormwater management and sediment control plan approval, construction and maintenance inspections, enforcement, and education and training.
- D. The Commission encourages the implementation of the Stormwater Management and Sediment Reduction Act on a watershed basis by local governments. The Commission recognizes that all jurisdictions may not have the resources available to implement this type of program immediately. However, the comprehensive approach of implementing the program on the watershed basis will allow for planned, orderly development in a watershed.
- E. The implementation of a stormwater utility represents a comprehensive approach to program funding and implementation. The activities which may be undertaken by a stormwater utility include not only assessment, collection, and funding activities, but also carrying out provisions of adopted stormwater management plans. These provisions may include contracting for such services as project construction, project maintenance, project inspection, and enforcement of installation and maintenance requirements imposed with respect to approved land disturbing activities.

72-301. Definitions.

As used in these regulations, the following terms shall have the meanings indicated below:

- 1. "Adverse Impact" means a significant negative impact to land, water and associated resources resulting from a land disturbing activity. The negative impact includes increased risk of flooding; degradation of water quality; increased sedimentation; reduced groundwater recharge; negative impacts on aquatic organisms; negative impacts on wildlife and other resources; and threatened public health.

- (7) Activities relating to the routine maintenance and/or repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company.
- (8) Activities undertaken on state-owned or managed lands that are otherwise regulated by the provisions of Chapter 18 of this title, the Erosion and Sediment Reduction Act.
- (9) Activities undertaken by local governments or special purpose or public service districts relating to the repair and maintenance of existing facilities and structures.

B. Implementing agencies with responsibility for plan review and approval may grant waivers from the stormwater management requirements of these regulations for individual land disturbing activities provided that a written request is submitted by the applicant containing descriptions, drawings, and any other information that is necessary to evaluate the proposed land disturbing activity. A separate written waiver request shall be required if there are subsequent additions, extensions, or modifications which would alter the approved stormwater runoff characteristics to a land disturbing activity receiving a waiver.

- (1) A project may be eligible for a waiver of stormwater management for both quantitative and qualitative control if the applicant can demonstrate that the proposed project will return the disturbed area to a pre-development runoff condition and the pre-development land use is unchanged at the conclusion of the project.
- (2) A project may be eligible for a waiver or variance of stormwater management for water quantity control if the applicant can demonstrate that:
 - (a) The proposed project will have no significant adverse impact on the receiving natural waterway or downstream properties; or
 - (b) The imposition of peak control requirements for rates of stormwater runoff would aggravate downstream flooding.
- (3) The implementing agency will conduct its review of the request for waiver within 10 working days. Failure of the implementing agency to act by end of the tenth working day will result in the automatic approval of the waiver.

C. The implementing agency with responsibility for plan review and approval may grant a written variance from any requirement of these regulations if there are exceptional circumstances applicable to the site such that strict adherence to the provisions of these regulations will result in unnecessary hardship and not fulfill the intent of these regulations. A written request for variance shall be provided to the plan approval agency and shall state the specific variances sought and the reasons with supporting data for their granting. The plan approval agency shall not grant a variance unless and until sufficient specific reasons justifying the variance are provided by the applicant. The

TRASK APPRAISAL COMPANY
P. O. BOX 1261, 75 SAMS POINT RD.
BEAUFORT, SC 29901
843-379-9625

August 11, 2006

BB&T Mortgage
P.O. Box 508
Beaufort, SC
29901

Property - 7 Sheridan Road
Lady's Island, SC 29907
Borrower - David S. & Mary A. Feron
File No. - 221A136
Case No. -

Dear Ms. Bailey:

In accordance with your request, I have personally inspected, made a Complete Appraisal, and prepared a Summary Appraisal Report of the real property located at 7 Sheridan Road, Lady's Island, SC.

The purpose of the Summary Appraisal is to provide an opinion of the market value of the property described in the body of this report.

Enclosed, please find the Summary Appraisal which describes certain data gathered during our investigation of the property. The methods of approach and reasoning in the valuation of the various physical and economic factors of the subject property are contained in this report.

An inspection of the property and a study of pertinent factors, including valuation trends and an analysis of neighborhood data, led the appraiser to the conclusion that the market value, as of 08/11/2006 is :

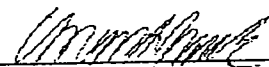
\$836,000

The opinion of value expressed in this report is contingent upon the Limiting Conditions attached to this report.

It has been a pleasure to assist you. If I may be of further service to you in the future, please let me know.

Respectfully submitted,

TRASK APPRAISAL COMPANY



Angus Trask
SC License #L3051

SC License #L1632



Uniform Residential Appraisal Report

File # 221A136

The purpose of this summary appraisal report is to provide the lender/client with an accurate, and adequately supported, opinion of the market value of the subject property.

Property Address **7 Sheridan Road** City **Lady's Island** State **SC** Zip Code **29907**
 Borrower **David S. & Mary A. Feron** Owner of Public Record **Feron (Same)** County **Beaufort, SC**
 Legal Description **Lot 2, Block B, The Rookery Portion of Parcel F, Cat Island**
 Assessor's Parcel # **R200 021 00A 0136 0000** Tax Year **2005** R.E. Taxes \$ **747.54/Lot Only**
 Neighborhood Name **Cat Island** Map Reference **200-21A-136** Census Tract **0009.00**
 Occupant ☐ Owner ☐ Tenant ☒ Vacant Special Assessments \$ **None Noted** ☒ PUD HOA \$ **49.00** ☐ per year ☒ per month
 Property Rights Appraised ☒ Fee Simple ☐ Leasehold ☐ Other (describe)
 Assignment Type ☐ Purchase Transaction ☐ Refinance Transaction ☒ Other (describe) **Construction**
 Lender/Client **BB&T Mortgage** Address **P.O. Box 508, Beaufort, SC 29901**
 Is the subject property currently offered for sale or has it been offered for sale in the twelve months prior to the effective date of the appraisal? ☐ Yes ☒ No
 Report data source(s) used, offering price(s), and date(s). The subject site has not transferred ownership within the past (3) three years
 This information was obtained from Beaufort County Public Records on 08/09/2006.
 I ☐ did ☐ did not analyze the contract for sale for the subject purchase transaction. Explain the results of the analysis of the contract for sale or why the analysis was not performed.
 The appraiser is unaware of any current or pending sales purchase contract involving the subject site. The subject improvements are under construction contract in the amount of \$526,292.
 Contract Price \$ **526,292** Date of Contract **8/7/2006** Is the property seller the owner of public record? ☐ Yes ☐ No Data Source(s) **N/A**
 Is there any financial assistance (loan charges, sale concessions, gift or downpayment assistance, etc.) to be paid by any party on behalf of the borrower? ☐ Yes ☒ No
 If Yes, report the total dollar amount and describe the terms to be paid: **N/A**

Note: Race and the racial composition of the neighborhood are not appraisal factors.

Neighborhood Characteristics				One-Unit Housing Trends				One-Unit Housing		Percent Land Use %
Location	☐ Urban	☒ Suburban	☐ Rural	Property Values	☒ Increasing	☐ Stable	☐ Declining	PRICE	AGE	One-Unit 55.0 %
Built-Up	☐ Over 75%	☒ 25-75%	☐ Under 25%	Demand/Supply	☐ Shortage	☒ In Balance	☐ Over Supply	\$ (000)	(yrs)	2-4 Unit %
Growth	☐ Rapid	☒ Stable	☐ Slow	Marketing Time	☐ Under 3 mths	☒ 3-6 mths	☐ Over 6 mths	225	Low New	Multi-Family %
Neighborhood Boundaries								1,300	High 25+	Commercial %
Neighborhood Description								460	Prod 5-20	Other 45.0 %

Cat Island is located approximately (1) one mile southeast of the central business district of Beaufort, SC.
 Cat Island is an area consisting of high-quality, custom-built, owner-occupied homes on interior, golf course, lagoon and deep-water homesites. The subject neighborhood is within close proximity of schools, hospitals and employment centers. The demand for similar properties is expected to continue.
 The general market conditions are active and all types of financing is available from local sources. Appreciation in this area has been steady and supply appears to be in line with demand.
 Beaufort has a strong tourist/retirement economy and (3) three military installations: MCAS Bfl., MCRD Parris Isl.

Dimensions **Provided Plat Measurements** Area **0.36 +/- Acres** Shape **Irregular** View **Lagoon/Wetlands**
 Specific Zoning Classification **CP - PUD** Zoning Description **Community Preservation - Planned Urban Development**
 Zoning Compliance ☒ Legal ☐ Legal Nonconforming (Grandfathered Use) ☐ No Zoning ☐ Illegal (describe)
 Is the highest and best use of the subject property as improved (or as proposed per plans and specifications) the present use? ☒ Yes ☐ No If No, describe
Single Family Residential
 Utilities ☒ Public ☐ Other (describe) **Public** Other (describe) **Public** Off-site Improvements-Type **Public** Private
 Beachfront ☒ SCE&G ☐ Water ☒ Beaufort/Jasper ☐ Street **Asphalt** ☒ ☐
 Gas ☐ Sanitary Sewer ☒ Beaufort/Jasper ☐ Alley ☐
 FEMA Special Flood Hazard Area ☒ Yes ☐ No FEMA Flood Zone **A-9** FEMA Map No. **450025 0095 D** FEMA Map Date **1986**
 Are the utilities and off-site improvements typical for the market area? ☒ Yes ☐ No If No, describe
 Are there any adverse site conditions or external factors (easements, encroachments, environmental conditions, land uses, etc.)? ☐ Yes ☒ No If Yes, describe
 The FEMA flood map is not exact. Final determination of the flood zone should be conducted by a licensed surveyor.

General Description		Foundation		Exterior Description		Interior	
Units ☒ One ☐ One with Accessory Unit	☐ Concrete Slab ☒ Crawl Space	Foundation Walls StPiers/PLouvers	Floors Wd/Cpl/Tle/VGd				
# of Stories (2) Two	☐ Full Basement ☐ Partial Basement	Exterior Walls Masonry Board	Walls Drivwall/Gd				
Type ☒ Det. ☐ All. ☐ S-Det/End Unit	Basement Area N/A sq. ft.	Road Surface AShingleVGGood/New	Trim/Finish Wd/VGd				
☐ Existing ☒ Proposed ☐ Under Const.	Basement Finish N/A %	Gutters & Downspouts Adeq.Overhang	Bath Floor CTile/VGd				
Design (Style) Traditional	☐ Outside Entry/Eol ☐ Sump Pump	Window Type Windsor/VGGood/New	Bath Wainscot CMbl/VGd				
Year Built New	Evidence of ☐ Infestation	Storm Sash/Insulated Ins/StormPanel	Car Storage ☐ None				
Effective Age (Yrs) New	☐ Dampness ☐ Settlement	Screens Nylon	☒ Driveway # of Cars 4+				
Attic ☐ None	Heating ☒ FWA ☐ HWB ☐ Radiant	Amenities ☐ WoodStove(s)#	Driveway Surface Tabv/HdSurf				
☒ Drop Stair ☐ Stairs	Other ☐ Fuel ☐ Electric	☒ Fireplace(s) # 1	☒ Garage # of Cars 2				
☐ Floor ☒ Soutle	Cooling ☒ Central Air Conditioning	☒ Patio/Deck	☐ Carport # of Cars				
☐ Finished ☐ Heated	☐ Individual ☐ Other Zoned	☐ Pool	☒ All. ☐ Det. ☐ Built-in				
Appliances ☒ Refrigerator ☒ Range/Oven ☒ Dishwasher ☐ Disposal ☒ Microwave ☒ Washer/Dryer ☒ Other (describe) Dryer/WCooler/Freezer							
Finished area above grade contains 9 Rooms 4 Bedrooms 3/2 Bath(s) 3,192 Square Feet of Gross Living Area Above Grade							

Additional features (special energy efficient items, etc.) **Superior-quality, architecturally-detailed residence with fireplace, wood floors, large porches, 2 car garage, 10 ft ceilings, zoned HVAC and superior-quality appliances/cabinets/trim.**
 Describe the condition of the property (including needed repairs, deterioration, renovations, remodeling, etc.). Subject property is proposed. There should be no physical or functional depreciation upon completion. Quality of proposed improvements is very good-superior. It should be noted that the square footage calculations for the proposed residence were made based on plan dimensions only and may vary from the finished square footage of the house as built. No external depreciation is anticipated or expected as Cat Island has proven to be a very stable/desirable subdivision over many prior years.
 Are there any physical deficiencies or adverse conditions that affect the livability, soundness, or structural integrity of the property? ☐ Yes ☒ No If Yes, describe
None Noted or Considered

Does the property generally conform to the neighborhood (functional utility, style, condition, use, construction, etc.)? ☒ Yes ☐ No If No, describe
The subject property does conform to the Cat Island area in style, use and condition.

Uniform Residential Appraisal Report

File # 221A136

There are 19 comparable properties in the subject neighborhood ranging in price from \$ 399,900.00 to \$ 3,200,000.00	
There are 10 comparable sales in the subject neighborhood within the past twelve months ranging in sale price from \$ 389,000.00 to \$ 930,000.00	
FEATURE	SUBJECT
Address	7 Claires Point
Cat Island/Beaufort, SC	Distant Island/Beaufort, SC
Proximity to Subject	1.5 miles north
Sale Price	\$ 865,000
Sale Price/Gross Liv. Area	\$ 319 sq. ft.
Data Source(s)	MLS/Public Records
Verification Source(s)	MLS/Public Records
VALUE ADJUSTMENTS	DESCRIPTION
Sale or Financing	Conventional
Concessions	
Date of Sale/Time	03/10/2006
Location	Suburban
Leasehold/Fee Simple	Fee Simple
Site	0.36 +/- Acres
View	Lagoon
Design (Style)	Traditional
Quality of Construction	VGood
Actual Age	New
Condition	New
Above Grade	Total Bdrms. Baths
Room Count	9 4 3/2
Gross Living Area	3,192 sq. ft.
Basement & Finished Rooms Below Grade	None Noted
Functional Utility	Good
Heating/Cooling	ZoneCentral
Energy Efficient Items	InsWdwds
Garage/Carport	2 Car/701 SF
Porch/Patio/Deck	688 SF CPch
Fireplaces	1 Fireplace
Bfr. Ctv. DMP#	200-21A-136
Landscape/Irrigation	Good/Yes
Net Adjustment (Total)	\$ -26,990
Adjusted Sale Price of Comparables	\$ 838,010
I ☒ did not research the sale or transfer history of the subject property and comparable sales. If not, explain	
My research ☐ did ☒ did not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal.	
Data Source(s) Beaufort County Public Records - Beaufort Multiple Listing Service	
My research ☐ did ☒ did not reveal any prior sales or transfers of the comparable sales for the prior year to the date of sale of the comparable sale.	
Data Source(s) Beaufort County Public Records - Beaufort Multiple Listing Service	
Report the results of the research and analysis of the prior sale or transfer history of the subject property and comparable sales (report additional prior sales on page 3).	
ITEM	SUBJECT
Date of Prior Sale/Transfer	No Sale/Transfer
Price of Prior Sale/Transfer	Prior (3) Three Years
Data Source(s)	Bfr. Ctv. Public Records
Effective Date of Data Source(s)	08/11/2006
Analysis of prior sale or transfer history of the subject property and comparable sales. A search of Beaufort County Public Records reveals no sale/transfer of the subject site within the past (3) three years. A search of Beaufort County Public Records reveals no sale of any comparable within the prior year.	
Summary of Sales Comparison Approach. All comparables utilized are the most appropriate sales discovered and are considered to be the best available indicators of value. It is the appraiser's opinion that the Direct Sales Comparison Approach is the most reliable indication of value for the subject property. The Cost Approach is supportive, however is allocated less consideration. The Income Approach is unreliable as typically residences similar to the subject are not purchased for income or revenue producing purposes. The adjusted sales price of the comparables range from \$845,303 to \$828,601. therefore it is reasonable to assume an estimated opinion of market value of \$836,000 for the subject property. This estimated opinion of market value for the subject is supported by the (4) four comparables utilized within this report.	
Indicated Value by Sales Comparison Approach \$ 836,000	
Indicated Value by: Sales Comparison Approach \$ 836,000 Cost Approach (if developed) \$ 830,800 Income Approach (if developed) \$ N/A	
Emphasis is allocated to the Market Data Analysis as it best reflects the typical market action between buyers and sellers. The Cost Approach is supportive. The Income Approach is unreliable for the reason(s) stated above. This appraisal is presented "Subject to Completion of Plans and Specifications".	
This appraisal is made ☐ "as is," ☒ subject to completion per plans and specifications on the basis of a hypothetical condition that the improvements have been completed, ☐ subject to the following repairs or alterations on the basis of a hypothetical condition that the repairs or alterations have been completed, or ☐ subject to the following required inspection based on the extraordinary assumption that the condition or deficiency does not require alteration or repair.	
Based on a complete visual inspection of the interior and exterior areas of the subject property, defined scope of work, statement of assumptions and limiting conditions, and appraiser's certification, my (our) opinion of the market value, as defined, of the real property that is the subject of this report is \$ 836,000 as of 08/11/2006, which is the date of inspection and the effective date of this appraisal.	

Uniform Residential Appraisal Report

File # 221A136

Purpose/Function and Scope of the Appraisal Procedure

The purpose of this appraisal is to estimate the fair market value of the subject property as defined within this report. The function of this appraisal is to assist the lender in collateral valuation and/or portfolio management. The value estimate contained in this report pertains to mortgage purposes only and becomes void when used in conjunction with non-mortgage purposes such as divorce settlement, condemnation etc. This appraisal is intended for the use of the above listed client known as BB&T. The scope of this assignment was developed specific to the needs of BB&T, which is the client and the only intended user identified by the appraiser.

Complete Visual Inspection of the Subject Property:

Does NOT include:

- Any attempt at discovery of potential adverse influences, including but not limited to: deviant human behavior, criminal activity, interim rehabilitation facilities for felonious offenders, registered sex offenders, second-hand smoke or noxious activities.
- The appraiser did not open every closet door, move furniture, open cabinets, drawers etc., did not view attic, crawl space, did not activate or test mechanical systems, including but not limited to plumbing, electrical, HVAC, door openers and appliances.
- The appraiser did not inspect for termite or wood boring insects.
- The appraiser did not inspect for mold, environmental or code compliance violations.
- This appraisal is NOT a home inspection or environmental assessment.

Does include:

- The appraiser did view readily accessible and observable interior and exterior areas.
- The appraiser did view floor-plan layout, noted amenities and also measured the subject improvements.
- The appraiser did note the subject property neighborhood conformity, general condition and assess functional utility.
- The appraiser did take photographs of the exterior front, rear and street scene of the subject property.

Replacement cost figures listed in the Cost Approach are for valuation purposes only. No (1) one client or other party should rely on these figures for insurance purposes. The definition of market value on Page (4) four of URAR is not consistent with definitions of insurable value.

The intended user of this appraisal report is BB&T. The intended use is to evaluate the property that is the subject of this appraisal for a mortgage finance transaction, subject to the stated Scope of Work, purpose of the appraisal, reporting requirements of this appraisal report form and Definition of Market Value. No additional users are identified by the appraiser.

COST APPROACH TO VALUE (not required by Fannie Mae)

Provide adequate information for the lender/client to replicate the below cost figures and calculations.

Support for the opinion of site value (summary of comparable land sales or other methods for estimating site value)

The site similar to the subject lot known as Lot 55, Distant Island sold on 06/12/2006 for \$289,900. This site has a pond view and is considered by the appraiser to be the most similar site sale discovered. This site consists of 0.63 +/- Acres.

ESTIMATED	REPRODUCTION OR	REPLACEMENT COST NEW	OPINION OF SITE VALUE	
Source of cost data	Local Cost Estimates/Marshall & Swift	Dwelling	3,192 Sq. Ft. @ \$ 140	= \$ 446,880
Quality rating from cost service	Good Effective date of cost data June/2005	Porch	688 Sq. Ft. @ \$ 36	= \$ 24,768
Comments on Cost Approach (gross living area calculations, depreciation, etc.)		Appliances/Fireplace		= \$ 22,000
Cost figures are estimated utilizing local cost estimates and The Marshall & Swift Residential Cost Handbook. The site value is estimated from the sales of lots similar to the subject. Adjustments to the comparables to account for the differences in GLA is calculated at \$75.00 per square foot.		Garage/Carport	701 Sq. Ft. @ \$ 48	= \$ 33,648
		Total Estimate of Cost-New		= \$ 527,296
		Less	Physical Functional External	
		Depreciation	N/A N/A N/A	= \$ ()
		Depreciated Cost of Improvements		= \$ 527,296
		As-is Value of Site Improvements		= \$ 13,500
		As-is: Land/Irrig/Drive/W/S		= \$
Estimated Remaining Economic Life (HUD and VA only)	Years	Indicated Value By Cost Approach		= \$ 830,796

INCOME APPROACH TO VALUE (not required by Fannie Mae)

Estimated Monthly Market Rent \$ X Gross Rent Multiplier = \$ Indicated Value by Income Approach

Summary of Income Approach (including support for market rent and GRM) Residences similar to the subject are not purchased for their income or revenue producing capabilities, therefore the Income Approach to value is unreliable.

PROJECT INFORMATION FOR PUDs (if applicable)

Is the developer/builder in control of the Homeowners' Association (HOA)? ☐ Yes ☒ No Unit type(s) ☒ Detached ☐ Attached

Provide the following information for PUDs ONLY if the developer/builder is in control of the HOA and the subject property is an attached dwelling unit.

Legal name of project

Total number of phases Total number of units Total number of units sold

Total number of units rented Total number of units for sale Data Source(s)

Was the project created by the conversion of existing building(s) into a PUD? ☐ Yes ☐ No If Yes, date of conversion

Does the project contain any multi-dwelling units? ☐ Yes ☐ No Data Source(s)

Are the units, common elements, and recreation facilities complete? ☐ Yes ☐ No If No, describe the status of completion.

Are the common elements leased to or by the Homeowners' Association? ☐ Yes ☐ No If Yes, describe the rental terms and options.

Describe common elements and recreational facilities

ADDITIONAL COMPARABLES															
Borrower David S. & Mary A. Feron															
Property Address 7 Sheridan Road															
City Lady's Island				County Beaufort, SC				State SC		Zip Code 29907					
Lender/Client BB&T Mortgage															
FEATURE		SUBJECT		COMPARABLE SALE NO. 4			COMPARABLE SALE NO. 5			COMPARABLE SALE NO. 6					
7 Sheridan Road		Cat Island/Beaufort, SC		225 Distant Island Drive											
Address				Distant Island/Beaufort, SC											
Proximity to Subject				1.5 miles north											
Sale Price		\$ N/A		\$ 670,000			\$			\$					
Sale Price/Gross Liv. Area		\$ 164 sq. ft.		\$ 205 sq. ft.			\$ sq. ft.			\$ sq. ft.					
Data Source(s)				MLS/Public Records											
Verification Source(s)															
VALUE ADJUSTMENTS		DESCRIPTION		DESCRIPTION		+/- \$ Adjustment		DESCRIPTION		+/- \$ Adjustment		DESCRIPTION		+/- \$ Adjustment	
Sale or Financing				Conventional											
Concessions															
Date of Sale/Time				04/05/2006											
Location		Suburban		Suburban											
Leasehold/Fee Simple		Fee Simple		Fee Simple											
Site		0.36 +/- Acres		0.49 +/- Est											
View		Lagoon		Wooded/15%		+100,500									
Design (Style)		Traditional		Traditional											
Quality of Construction		VGood		Good/S20 psf		+65,500									
Actual Age		New		New											
Condition		New		New											
Above Grade		Total Bdrms. Baths		Total Bdrms. Baths				Total Bdrms. Baths				Total Bdrms. Baths			
Room Count		9 4 3/2		8 3 2/2		+3,000									
Gross Living Area		3,192 sq. ft.		3,275 sq. ft.		-6,225		sq. ft.				sq. ft.			
Basement & Finished		None Noted		None Noted											
Rooms Below Grade															
Functional Utility		Good		Good											
Heating/Cooling		ZoneCentral		ZoneCentral											
Energy Efficient Items		InsWindws		InsWindws											
Garage/Carport		2 Car/701 SF		Off Street		+27,000									
Porch/Patio/Deck		688 SF CPch		CvdPch/Sup		-14,472									
Fireplaces		1 Fireplace		1 Fireplace											
Bfr. Ctv. DMP#		200-21A-136		120-18A-253											
Landscape/Irrigation		Good/Yes		Good/Yes											
Net Adjustment (Total)		[X] + - \$		175,303				[X] + - \$				[X] + - \$			
Adjusted Sale Price				Net Adj. 26.2%				Net Adj. %				Net Adj. %			
of Comparables				Gross Adj. 32.3%		\$ 845,303		Gross Adj. %		\$		Gross Adj. %		\$	
Comment on Sales Comparison															
Highest and Best Use															
The appraiser has considered all relative factors which influence value including present and anticipated forces of change in determining The Highest and Best Use of the subject property. It is the appraisers opinion that the Highest and Best Use of the subject is SINGLE FAMILY RESIDENTIAL.															
The distance between the subject and comparables is not unusual for this area. All (4) four comparables are within a (10) ten mile radius of the subject property.															
The appraiser has conducted a diligent search for more similar properties that would require fewer adjustments to no avail. The comparables utilized herein are deemed by the appraiser to be the most appropriate available in rendering an estimated opinion of market value for the subject property. Some of the comparable adjustments may exceed the recommended FNMA guidelines for gross and/or net adjustments. The reason for this condition is due to the large differences in the site sizes/views, quality, age and size of the improvements, coupled the absence and/or presence of inferior/superior porches, vehicle storage and additional exterior amenities. Comparables #2, #3 and #4 exceed the FNMA recommended guidelines for gross adjustments. Comparable #4 exceeds the FNMA recommended guidelines for net adjustments. This condition could not be avoided as there were few sales of more similar properties from which to choose. For this reason, the appraiser has included (4) four comparables herein.															
There have been few sales of more similar properties directly within the subject neighborhood of Cat Island within the past (6) six months, therefore the appraiser was forced to expand his search criteria to other similar areas for comparables. It should be noted that all comparables included herein are sales which occurred within the past (6) six months. Cat Island has residences similar to the subject in quality and price, however no sales of these residences were discovered by the appraiser in his search of Beaufort MLS or Beaufort Public Records of which would have occurred within the past year.															
Comments on Sales Comparison Analysis:															
Comparables #1 and #2 received an estimated \$20.00 per square foot superior quality of construction adjustment for superior interior finish, cabinets/kitchens/baths/flooring/etc.															
Comparables #2, #3 and #4 received an estimated 15% inferior view adjustment for interior/golf views versus subject lagoon/pond view, which is deemed by the appraiser to be superior. Comparables #2 and #3 received superior site size adjustments.															
Comparables #1 and #4 received superior porch adjustments. The porches of these (2) two comparables are substantially larger than the subject porches, therefore resultant in this adjustment.															
Comparable #4 received an inferior vehicle storage adjustment for the absence of a garage. This adjustment is 80% of the garage cost as displayed in the "Cost Analysis" of this report.															

Value 6
lagoon.

MULTI-PURPOSE APPRAISAL ADDENDUM FOR FEDERALLY RELATED TRANSACTIONS

Borrower/Client	David S. & Marv A. Feron		
Property Address	7 Sheridan Road		
City	Lady's Island	County	Beaufort, SC
State	SC	Zip Code	29907
Lender	BB&T Mortgage		

This Multi-Purpose Supplemental Addendum for Federally Related Transactions was designed to provide the appraiser with a convenient way to comply with the current appraisal standards and requirements of the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of Currency (OCC), The Office of Thrift Supervision (OTS), the Resolution Trust Corporation (RTC) and the Federal Reserve.

This Multi-Purpose Supplemental Addendum is for use with any appraisal. Only those statements which have been checked by the appraiser apply to the property being appraised.

☒ **PURPOSE & FUNCTION OF APPRAISAL**

The purpose of the appraisal is to estimate the market value of the subject property as defined herein. The function of the appraisal is to assist the above-named Lender in evaluating the subject property for lending purposes. This is a Federally related transaction.

☒ **EXTENT OF APPRAISAL PROCESS**

☒ The appraisal is based on the information gathered by the appraiser from public records, other identified sources, inspection of the subject property and neighborhood, and selection of comparable sales within the subject market area. The original source of the comparables is shown in the Data Source section of the market grid along with the source of confirmation, if available. The original source is presented first. The sources and data are considered reliable. When conflicting information was provided, the source deemed most reliable has been used. Data believed to be unreliable was not included in the report nor used as a basis for the value conclusion.

☒ The Reproduction Cost is based on Local Construction Cost Estimates and Marshall and Swift supplemented by the appraiser's knowledge of the local market.

☐ Physical depreciation is based on the estimated effective age of the subject property. Functional and/or external depreciation, if present, is specifically addressed in the appraisal report or other addenda. In estimating the site value, the appraiser has relied on personal knowledge of the local market. This knowledge is based on prior and/or current analysis of site sales and/or abstraction of site values from sales of improved properties.

☒ The subject property is located in an area of primarily owner-occupied single family residences and the Income Approach is not considered to be meaningful. For this reason, the Income Approach was not used.

☐ The Estimated Market Rent and Gross Rent Multiplier utilized in the Income Approach are based on the appraiser's knowledge of the subject market area. The rental knowledge is based on prior and/or current rental rate surveys of residential properties. The Gross Rent Multiplier is based on prior and/or current analysis of prices and market rates for residential properties.

☐ For income producing properties, actual rents, vacancies and expenses have been reported and analyzed. They have been used to project future rents, vacancies and expenses.

☒ **SUBJECT PROPERTY OFFERING INFORMATION**

According to Beaufort Multiple Listing Service the subject property:

☒ has not been offered for sale in the past 30 days.

☐ is currently offered for sale for \$ _____.

☐ was offered for sale within the past 30 days for \$ _____.

☐ Offering information was considered in the final reconciliation of value.

☐ Offering information was not considered in the final reconciliation of value.

☐ Offering information was not available. The reasons for unavailability and the steps taken by the appraiser are explained later in this addendum.

☒ **SALES HISTORY OF SUBJECT PROPERTY**

According to Beaufort County Public Records the subject property:

☒ has not transferred in the past thirty-six months.

☐ has transferred in the past thirty-six months.

☐ All prior sales which have occurred in the past thirty-six months are listed below and reconciled to the appraised value, either in the body of the report or in the addenda.

Date	Sales Price	Document #	Seller	Buyer

☒ **FEMA FLOOD HAZARD DATA**

☐ The subject property is not located in a FEMA Special Flood Hazard Area.

☒ The subject property is located in a FEMA Special Flood Hazard Area.

Zone	FEMA Map/Panel #	Map Date	Name of Community
Zone A-9	450025 095 D	1986	Beaufort County, SC

☐ The community does not participate in the National Flood Insurance Program.

☒ The community does participate in the National Flood Insurance Program.

☐ It is covered by a regular program.

☐ It is covered by an emergency program.

Uniform Residential Appraisal Report

10904654

File No. 7103383472

The purpose of this summary appraisal report is to provide the lender/client with an accurate, and adequately supported, opinion of the market value of the subject property.

Property Address **7 SHERIDAN ROAD** City **BEAUFORT** State **SC** Zip Code **29907-1723**

Borrower **DAVID FERON** Owner of Public Record **DAVID SNYDER FERON** County **BEAUFORT**

Legal Description **LOT 28 THE ROOKERY POR OF PAR F CAT ISLAND PB97 P184**

Assessor's Parcel # **R200 021 00A 0136 0000** Tax Year **2009** R.E. Taxes \$ **2,640.65**

Neighborhood Name **CAT ISLAND** Map Reference **R200 021 00A 0136 0000** Census Tract **45-013-0009.00**

Occupant ☒ Owner ☐ Tenant ☐ Vacant Special Assessments \$ **N/A** ☒ PUD HOA \$ **330.00** ☒ per year ☐ per month

Property Rights Appraised ☒ Fee Simple ☐ Leasehold ☐ Other (describe)

Assignment Type ☐ Purchase Transaction ☒ Refinance Transaction ☐ Other (describe)

Lender/Client **MERRILL LYNCH CREDIT CORPORATION** Address **5201 GATEWAY PARKWAY, JACKSONVILLE, FL 32256**

Is the subject property currently offered for sale or has it been offered for sale in the twelve months prior to the effective date of this appraisal? ☐ Yes ☒ No

Report data source(s) used, offering price(s), and date(s). **ACCORDING TO THE BEAUFORT MULTIPLE LISTING SYSTEM, THE SUBJECT PROPERTY HAS NOT BEEN LISTED FOR SALE IN THE PAST 12 MONTHS.**

I ☐ did ☒ did not analyze the contract for sale for the subject purchase transaction. Explain the results of the analysis of the contract for sale or why the analysis was not performed.
TO THE APPRAISERS KNOWLEDGE, THE SUBJECT WAS NOT UNDER CONTRACT ON DATE OF APPRAISAL. THIS WAS A REFINANCE ASSIGNMENT. THE OWNER AND THE BORROWER, ACCORDING TO TAX RECORDS ARE ONE IN THE SAME.

Contract Price \$ **N/A** Date of Contract **N/A** Is the property seller the owner of public record? ☒ Yes ☐ No Data Source(s) **TAX RECORDS**

Is there any financial assistance (loan charges, sale concessions, gift or downpayment assistance, etc.) to be paid by any party on behalf of the borrower? ☐ Yes ☒ No

If Yes, report the total dollar amount and describe the items to be paid. **N/A**

Note: Race and the racial composition of the neighborhood are not appraisal factors.

Neighborhood Characteristics		One-Unit Housing Trends		One-Unit Housing		Present Land Use %	
Location	☐ Urban ☒ Suburban ☐ Rural	Property Values	☐ Increasing ☐ Stable ☒ Declining	PRICE	AGE	One-Unit	90 %
Built-Up	☐ Over 75% ☒ 25-75% ☐ Under 25%	Demand/Supply	☐ Shortage ☐ In Balance ☒ Over Supply	\$(000)	(yrs)	2-4 Unit	0 %
Growth	☐ Rapid ☒ Stable ☐ Slow	Marketing Time	☐ Under 3 mths ☐ 3-6 mths ☒ Over 6 mths	150 Low	NEW	Multi-Family	0 %
Neighborhood Boundaries CANE ISLAND - NORTH; BEAUFORT RIVER - WEST; CAT ISLAND CREEK - SOUTH AND CHOWAN CREEK - EAST.				2,500 High	20	Commercial	0 %
				375 Pred.	5	Other recreat.	10 %

Neighborhood Description **SUBJECT WAS LOCATED ON CAT ISLAND WHICH WAS A WATER FRONT COMMUNITY WITH AN 18-HOLE SEMI-PRIVATE GOLF COURSE WITH TENNIS COURTS, POOL AND CLUBHOUSE WITH DINING. THERE WAS A MIXTURE OF AVERAGE TO GOOD QUALITY BUILT HOMES, WITH SOME HOMES LOCATED ON DEEP WATER, THUS THE WIDE PRICE RANGE. CONVENIENCE TO EMPLOYMENT, SHOPPING, AND SCHOOLS WAS CONSIDERED AVERAGE.**

Market Conditions (including support for the above conclusions) **SEE ATTACHED 1004 MC FORM**

Dimensions **SEE ATTACHED PLAT FOR DIMENSIONS** Area **0.36 ACRES** Shape **IRREGULAR-NOT ADVERSE** View **LAGOON**

Specific Zoning Classification **COMMUNITY PRESERV.** Zoning Description **COMMUNITY PRESERVATION - SINGLE FAMILY RESIDENTIAL**

Zoning Compliance ☒ Legal ☐ Legal Nonconforming (Grandfathered Use) ☐ No Zoning ☐ Illegal (describe)

Is the highest and best use of the subject property as improved (or as proposed per plans and specifications) the present use? ☒ Yes ☐ No If No, describe.

Utilities Public Other (describe) Public Other (describe) Off-site Improvements—Type Public Private

Electricity ☒ ☐ Water ☒ ☐ Street **PAVED** ☒ ☐

Gas ☐ ☒ LP TANK Sanitary Sewer ☒ ☐ Alley **NONE** ☐ ☐

FEMA Special Flood Hazard Area ☒ Yes ☐ No FEMA Flood Zone **A9** FEMA Map # **4500250125E** FEMA Map Date **11/04/1992**

Are the utilities and off-site improvements typical for the market area? ☒ Yes ☐ No If No, describe.

Are there any adverse site conditions or external factors (easements, encroachments, environmental conditions, land uses, etc.)? ☐ Yes ☒ No If Yes, describe. **THE SITE WAS LEVEL ABOVE ROAD GRADE WITH A LAGOON VIEW TO THE REAR. THE LAGOON TO THE REAR WAS TIDAL IN NATURE. ON THE DATE OF APPRAISAL, THERE WAS A BURIED LP GAS TANK ON THE SITE. ONLY TYPICAL UTILITY EASEMENTS WERE IN PLACE. THERE WERE NO OTHER EASEMENTS, ENCROACHMENTS OR ADVERSE CONDITIONS NOTED ON THE DATE OF APPRAISAL.**

GENERAL DESCRIPTION		FOUNDATION		EXTERIOR DESCRIPTION materials/condition		INTERIOR materials/condition	
Units	☒ One ☐ One with Accessory Unit	☐ Concrete Slab ☒ Crawl Space		Foundation Walls	BLK PIERS/GOOD	Floors	WW, HW, TL/GOOD
# of Stories	1.5	☐ Full Basement ☐ Partial Basement		Exterior Walls	CEM BOARD/GOOD	Walls	SR/GOOD
Type	☒ Det. ☐ Att. ☐ S-Det/End Unit	Basement Area	NONE NOTED sq. ft.	Road Surface	ASP SHING/GOOD	Trim/Finish	WD CRWN/GOOD
☒ Existing ☐ Proposed ☐ Under Const.		Basement Finish	NONE NOTED %	Gutters & Downspouts	OVERHANG/GOOD	Bath Floor	TILE HW/GOOD
Design (Style)	1.5-STORY	☐ Outside Entry/Exit ☐ Sump Pump		Window Type	DBLE HUNG/GOOD	Bath Wainscot	CM, FG/GOOD
Year Built	2007	Evidence of ☐ Intestation ☐ Dampness ☐ Settlement		Storm Sash/Insulated	INSULATED/GOOD	Car Storage	☐ None
Effective Age (Yrs)	2	Heating ☒ FWA ☐ HWBB ☐ Radiant		Screens	YES/GOOD	☒ Driveway # of Cars	2
Attic	☐ None	Other ☐ Fuel ELECTRIC		Amenities	☐ Wood Stove(s) #	Driveway Surface	CONCRETE
☒ Drop Stair ☐ Stairs		Cooling ☒ Central Air Conditioning ☐ Individual ☐ Other		☒ Fireplace(s) # 1 ☐ Fence		☒ Garage # of Cars	2
☒ Floor ☐ Scuttle		☐ Patio/Deck ☒ Porch 2 CV/1 SC ☐ Pool		☐ Carpet # of Cars		☐ Att. ☐ Det. ☐ Built-in	
☐ Finished ☐ Heated		Appliances ☐ Refrigerator ☒ Range/Oven ☒ Dishwasher ☒ Disposal ☒ Microwave ☐ Washer/Dryer ☒ Other (describe)					

Finished area above grade contains: **7 Rooms 4 Bedrooms 4.5 Bath(s) 3,287 Square Feet of Gross Living Area Above Grade**

Additional features (special energy efficient items, etc.) **SUBJECT HAD A COVERED PORCH IN FRONT, SCREENED/COVERED PORCH IN REAR, 9', 10' & TRAY CEILINGS WITH FANS, CROWN MOLDING, SURROUND SOUND, STAINLESS APPLIANCES W/ GAS RANGE, HARD SURFACED COUNTERS, BUILT-INS, FIREPLACE.**

Describe the condition of the property (including needed repairs, deterioration, renovations, remodeling, etc.). **THE SUBJECT WAS BUILT WITH GOOD QUALITY MATERIALS AND WORKMANSHIP. THE HOME WAS IN GOOD CONDITION ON THE DATE OF APPRAISAL.**

Are there any physical deficiencies or adverse conditions that affect the livability, soundness, or structural integrity of the property? ☐ Yes ☒ No If Yes, describe. **NO PHYSICAL FUNCTIONAL OR EXTERNAL INADEQUACIES WERE NOTED.**

Does the property generally conform to the neighborhood (functional utility, style, condition, use, construction, etc.)? ☒ Yes ☐ No If No, describe. **SUBJECT CONFORMS TO NEIGHBORHOOD IN DESIGN, UTILITY, CONDITION AND STYLE OF CONSTRUCTION.**

Uniform Residential Appraisal Report

10904654

File No. 7103383472

There are 20 comparable properties currently offered for sale in the subject neighborhood ranging in price from \$ 379,000 to \$ 1,500,000				
There are 5 comparable sales in the subject neighborhood within the past twelve months ranging in sale price from \$ 285,000 to \$ 429,000				
FEATURE	SUBJECT	COMPARABLE SALE NO. 1	COMPARABLE SALE NO. 2	COMPARABLE SALE NO. 3
7 SHERIDAN ROAD		31 TIMBER TRAIL	12 S EASTOVER	62 WOODLAND RIDGE CIR
Address BEAUFORT, SC 29907		Address BEAUFORT, SC 29907	Address BEAUFORT, SC 29906	Address BEAUFORT, SC 29907
Proximity to Subject		0.50 MILES WNW	8.23 MILES WNW	8.82 MILES N
Sale Price	\$ N/A	\$ 429,000	\$ 525,000	\$ 543,150
Sale Price/Gross Liv. Area	\$ 0.00 sq. ft.	\$ 143.00 sq. ft.	\$ 186.17 sq. ft.	\$ 156.66 sq. ft.
Data Source(s)	OBSERVATION	MLS #122703	MLS #108236	MLS #118624
Verification Source(s)	TAX RECORDS	R200 021 00A 0308	R100 027 000 0452	R200 006 000 0556
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	DESCRIPTION	DESCRIPTION
Sale or Financing	N/A	CONVENTIONAL	CONVENTIONAL	CONVENTIONAL
Concessions		TYPICAL	TYPICAL	TYPICAL
Date of Sale/Time	N/A	05/10/2010	07/17/2010	10/06/2010
Location	CAT ISLAND	CAT ISLAND	HABERSHAM	COOSAW POINT
Leasehold/Fee Simple	FEE SIMPLE	FEE SIMPLE	FEE SIMPLE	FEE SIMPLE
Site	0.36 ACRES	0.43 ACRES	0.15 ACRES	0.72 ACRES +/-
View	LAGOON	WOODED	COMM PARK	WOODED
Design (Style)	1.5-STORY	1.5-STORY	2-STORY	2-STORY
Quality of Construction	GOOD	GOOD	GOOD	GOOD
Actual Age	3	4	2	2
Condition	GOOD	GOOD	GOOD	GOOD
Above Grade	Total Baths: 4.5	Total Baths: 4	Total Baths: 3.5	Total Baths: 3.5
Room Count	7	7	7	10
Gross Living Area	\$0.00	3,287 sq. ft.	14,350	3,467 sq. ft.
Basement & Finished	N/A	N/A	N/A	N/A
Rooms Below Grade	N/A	N/A	N/A	N/A
Functional Utility	AVERAGE	AVERAGE	AVERAGE	AVERAGE
Heating/Cooling	CENT./CENT.	CENT./CENT.	CENT./CENT.	CENT./CENT.
Energy Efficient Items	INS. WINDS.	INS. WINDS.	INS. WINDS.	INS. WINDS.
Garage/Carport	2-CAR GARAGE	2-CAR GARAGE	NONE NOTED	2-CAR GARAGE
Porch/Patio/Deck	2 C PCH.S PCH	2 C PCH.S PCH	3 COVERED	COV/SCR PCH
FIREPLACE	FIREPLACE	FIREPLACE	FIREPLACE	FIREPLACE
EXTRAS	NONE NOTED	FENCE	NONE NOTED	NONE NOTED
DAYS ON MARKET	N/A	97	1404	601
Net Adjustment (Total)	☒ + ☐ -	\$ 106,125	\$ 46,788	\$ 47,000
Adjusted Sale Price		Net Adj. 24.7%	Net Adj. 8.9%	Net Adj. 8.7%
of Comparables		Gross Adj. 30.7%	Gross Adj. 11.4%	Gross Adj. 12.7%
I ☒ did ☐ did not research the sale or transfer history of the subject property and comparable sales. If not, explain				
My research ☐ did ☒ did not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal.				
Data source(s) TAX RECORDS RECORDED IN THE RMC OFFICE OF BEAUFORT COUNTY				
My research ☐ did ☒ did not reveal any prior sales or transfers of the comparable sales for the year prior to the date of sale of the comparable sale.				
Data source(s) TAX RECORDS RECORDED IN THE RMC OFFICE OF BEAUFORT COUNTY				
Report the results of the research and analysis of the prior sale or transfer history of the subject property and comparable sales (report additional prior sales on page 3).				
ITEM	SUBJECT	COMPARABLE SALE NO. 1	COMPARABLE SALE NO. 2	COMPARABLE SALE NO. 3
Date of Prior Sale/Transfer	THERE WAS NO SALE	THERE WAS NO SALE	THERE WAS NO SALE	THERE WAS NO SALE
Price of Prior Sale/Transfer	IN THE PREVIOUS 3 YEARS	IN THE PREVIOUS YEAR	IN THE PREVIOUS YEAR	IN THE PREVIOUS YEAR
Data Source(s)	TAX RECORDS	TAX RECORDS	TAX RECORDS	TAX RECORDS
Effective Date of Data Source(s)	11/08/2010	11/08/2010	11/08/2010	11/08/2010
Analysis of prior sale or transfer history of the subject property and comparable sales THE PRIOR SALES HISTORY OF THE SUBJECT WAS CONFIRMED THROUGH BOTH THE COUNTY RECORDS AND THE MLS. ALL SALES PROVIDED HAVE BEEN VERIFIED AS CLOSED SALES WITHIN THE PAST YEAR AND IF ANY OF THESE SALES HAVE RESOLD / TRANSFERRED WITHIN ONE YEAR PRIOR TO THE EFFECTIVE DATE OF APPRAISAL THEN THIS INFORMATION HAS BEEN PROVIDED ABOVE.				
Summary of Sales Comparison Approach AFTER ANALYZING ALL OF THE DATA AVAILABLE & WEIGHING THE COMPS CHOSEN, MY OPINION OF VALUE WAS, \$570,000. \$50 PER SQUARE FEET WAS USED FOR DIFFERENCES IN GROSS LIVING AREA & \$2,000 PER YEAR FOR ACTUAL AGE. SEE ATTACHED ADDENDUM FOR FURTHER EXPLANATION OF ADJUSTMENTS.				
Indicated Value by Sales Comparison Approach \$ 570,000				
Indicated Value by: Sales Comparison Approach \$ 570,000 Cost Approach (if developed) \$ 574,800 Income Approach (if developed) \$ N/A				
SEE ATTACHED ADDENDUM				
This appraisal is made ☒ "as is," ☐ subject to completion per plans and specifications on the basis of a hypothetical condition that the improvements have been completed, ☐ subject to the following repairs or alterations on the basis of a hypothetical condition that the repairs or alterations have been completed, or ☐ subject to the following required inspection based on the extraordinary assumption that the condition or deficiency does not require alteration or repair: ALL MECHANICAL, ELECTRICAL, AND PLUMBING EQUIPMENT APPEARED TO BE IN WORKING ORDER, AND NO TERMITE INFESTATION APPEARED TO BE PRESENT.				
Based on a complete visual inspection of the interior and exterior areas of the subject property, defined scope of work, statement of assumptions and limiting conditions, and appraiser's certification, my (our) opinion of the market value, as defined, of the real property that is the subject of this report is \$ 570,000				
as of 11/08/2010 , which is the date of inspection and the effective date of this appraisal.				

Uniform Residential Appraisal Report

10904654

File No. 7103383472

THE COST APPROACH HAS ONLY BEEN DEVELOPED BY THE APPRAISER AS AN ANALYSIS TO SUPPORT THEIR OPINION OF THE PROPERTY'S MARKET VALUE. USE OF THIS DATA, IN WHOLE OR PART, FOR OTHER PURPOSES IS NOT INTENDED BY THE APPRAISER. NOTHING SET FORTH IN THE APPRAISAL SHOULD BE RELIED UPON FOR THE PURPOSE OF DETERMINING THE AMOUNT OR TYPE OF INSURANCE COVERAGE TO BE PLACED ON THE SUBJECT PROPERTY. THE APPRAISER ASSUMES NO LIABILITY FOR AND DOES NOT GUARANTEE THAT ANY INSURABLE VALUE ESTIMATE INFERRED FROM THIS REPORT WILL RESULT IN THE SUBJECT PROPERTY BEING FULLY INSURED FOR ANY LOSS THAT MAY BE SUSTAINED. FURTHER, THE COST APPROACH MAY NOT BE RELIABLE INDICATION OF REPLACEMENT OR REPRODUCTION COST FOR ANY DATE OTHER THAN THE EFFECTIVE DATE OF THIS APPRAISAL DUE TO CHANGING COSTS OF LABOR AND MATERIALS AND DUE TO CHANGING BUILDING CODES AND GOVERNMENTAL REGULATIONS AND REQUIREMENTS.

ADDITIONAL COMMENTS

COST APPROACH TO VALUE (not required by Fannie Mae)

Provide adequate information for the lender/client to replicate the below cost figures and calculations.

Support for the opinion of site value (summary of comparable land sales or other methods for estimating site value)

THE SITE VALUE IS BASED UPON THE COMPARISON OF

SALES OF SIMILAR SITES TO THE SUBJECT'S SITE AND/OR MARKET EXTRACTION, WHERE NECESSARY. THE SALES COMPARISON ANALYSIS AND/OR MARKET EXTRACTION ANALYSIS HAS BEEN RETAINED IN THE APPRAISER'S FILE.

ESTIMATED	☐ REPRODUCTION OR	☒ REPLACEMENT COST NEW	OPINION OF SITE VALUE				= \$	100,000		
Source of cost data	LOCAL BUILDERS COSTS		Overhead	3,287	Sq. Ft. @ \$	140.00	= \$	460,180		
Quality rating from cost service	GOOD		Effective date of cost data	11/2010		Sq. Ft. @ \$	= \$			
Comments on Cost Approach (gross living area calculations, depreciation, etc.)			EXTRAS INCLUDED IN BASE PRICE					0		
SITE VALUE WAS ESTIMATED BASED ON COMPARABLE SALES IN THE AREA.			Garage/Carport	688	Sq. Ft. @ \$	30.00	= \$	20,640		
BUILDING COSTS WERE BASED ON LOCAL CONTRACTORS PRICES. THE			Total Estimate of Cost-New					480,820		
AGE/LIFE METHOD OF DEPRECIATION WAS USED TO ESTIMATE PHYSICAL			Less	60	Physical	Functional	External			
DEPRECIATION, BASED ON A LIFE OF 60 YEARS AND AN EFFECTIVE AGE OF 2			Depreciation	\$16,027			= \$ (	16,027)		
YEARS.			Depreciated Cost of Improvements					= \$	464,793	
			'As-is' Value of Site Improvements					= \$	10,000	
Estimated Remaining Economic Life (HUD and VA only)			58	Years	INDICATED VALUE BY COST APPROACH				= \$	574,800

COST APPROACH

INCOME APPROACH TO VALUE (not required by Fannie Mae)

Estimated Monthly Market Rent \$ N/A X Gross Rent Multiplier N/A = \$ N/A Indicated Value by Income Approach

Summary of Income Approach (including support for market rent and GRM) THE INCOME APPROACH WAS NOT A CREDIBLE SOURCE FOR FORMING A FINAL OPINION OF VALUE.

PROJECT INFORMATION FOR PUDs (if applicable)

Is the developer/builder in control of the Homeowners' Association (HOA)? ☐ Yes ☒ No Unit type(s) ☒ Detached ☐ Attached

Provide the following information for PUDs ONLY if the developer/builder is in control of the HOA and the subject property is an attached dwelling unit.

Legal name of project CAT ISLAND

Total number of phases 12

Total number of units 225

Total number of units sold 180

Total number of units rented 0

Total number of units for sale 45

Data source(s) CAT ISLAND REALTY

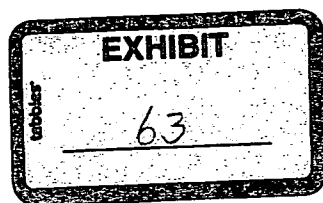
Was the project created by the conversion of an existing building(s) into a PUD? ☐ Yes ☒ No If Yes, date of conversion.Does the project contain any multi-dwelling units? ☐ Yes ☒ No Data source(s)Are the units, common elements, and recreation facilities complete? ☒ Yes ☐ No If No, describe the status of completion.Are the common elements leased to or by the Homeowners' Association? ☐ Yes ☒ No If Yes, describe the rental terms and options.

Describe common elements and recreational facilities. ROAD SIDES, ENTRANCES

PHOTOGRAPHS OF MUD PIT

TAKEN BY PAMELA NORTH

1/10/14



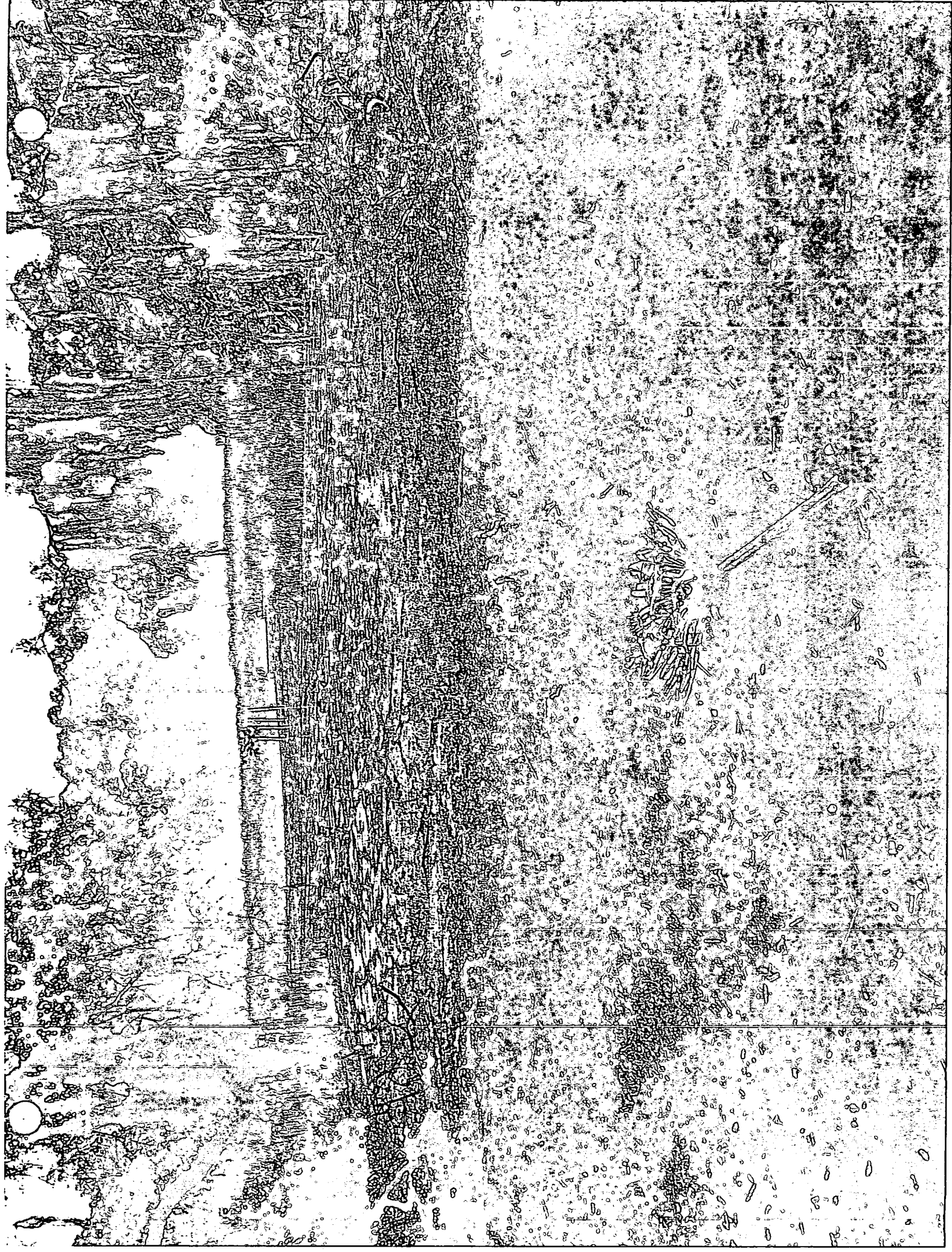


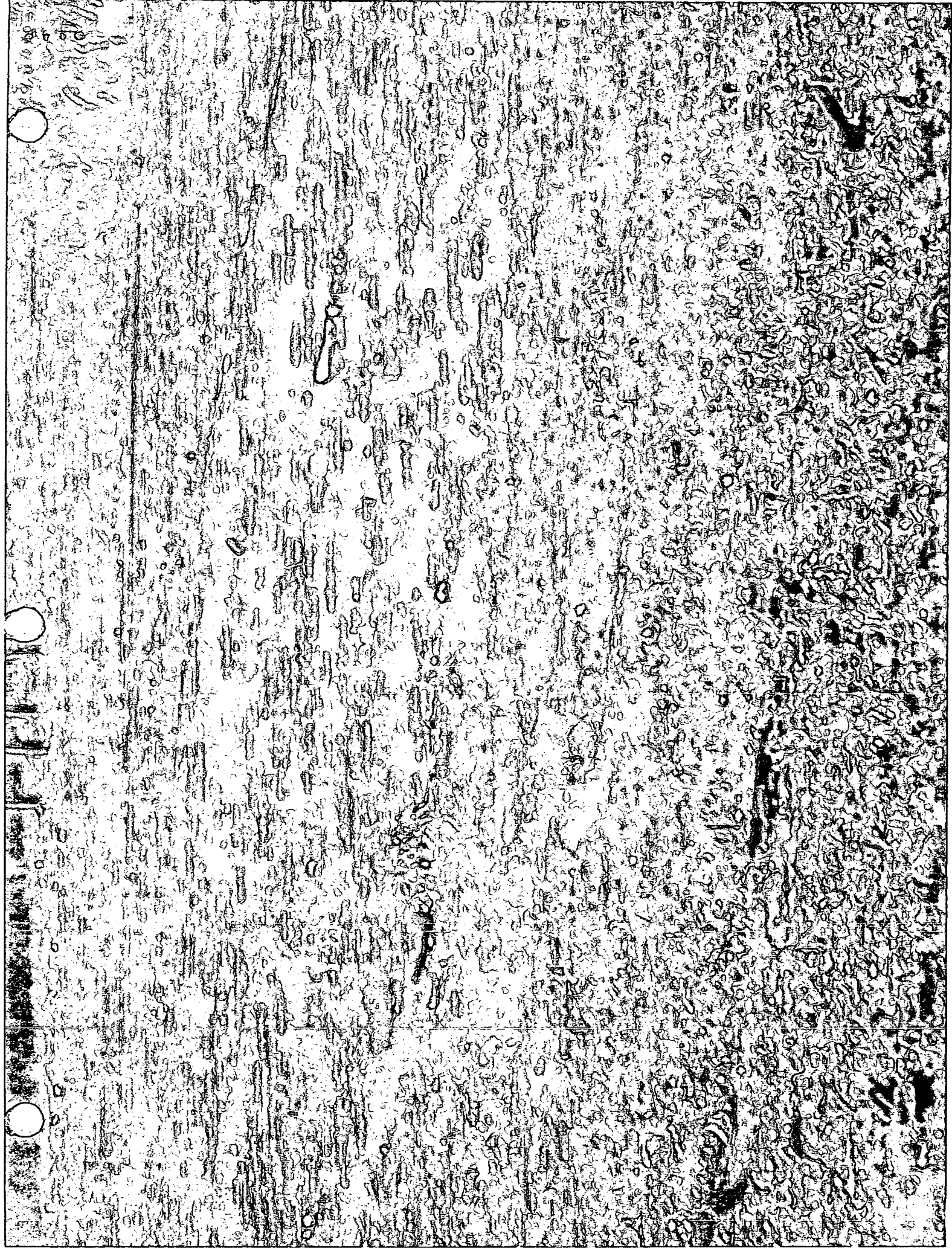


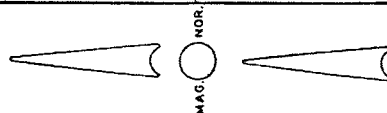
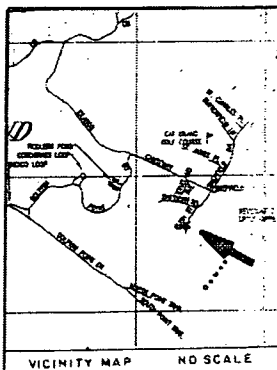






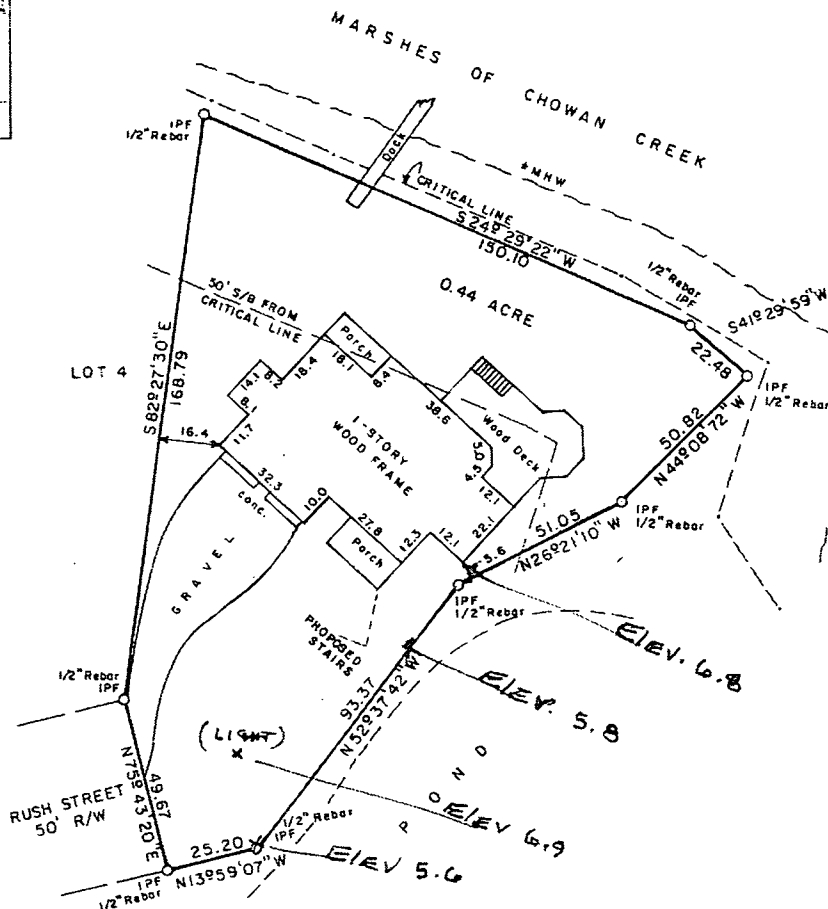






THE AREA SHOWN ON THIS PLAT IS A GENERAL REPRESENTATION OF THE SUBJECT PROPERTY. THE SUBJECT PROPERTY IS SUBJECT TO CHANGE OVER TIME. BY GENERALLY DELINEATING THE PERMIT AREA OF THE DHEC-DORM, THE OFFICE OF DORM IN NO WAY VALVES THE RIGHT TO ASSERT PERMIT JURISDICTION IN ANY CRITICAL AREA ON THE SUBJECT PROPERTY WHETHER SHOWN OR NOT. ALL PROPERTY OWNERS OR PROSPECTIVE BUYERS ARE ADVISED TO OBTAIN A CURRENT SURVEY PRIOR TO CONSTRUCTION OR CLOSING ON THE SALE OF THIS PROPERTY.

Michael H. Nelson
SIGNATURE
11/27/01
DATE
11/27/01
EXPIRATION DATE



FOUNDATION SURVEY PREPARED FOR
JOHN NORTH

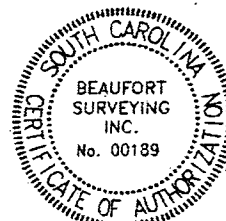
THE SAME BEING LOT 5, BLOCK A, PARCEL F, "THE ROOKERY", CAT ISLAND AS SHOWN ON A PLAT BY R. D. TROGDON, JR., DATED JULY 22, 1988 AND RECORDED IN THE OFFICE OF THE CLERK OF COURT FOR BEAUFORT COUNTY, SOUTH CAROLINA IN PLAT BOOK 35, PAGE 226.

I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS B SURVEY AS SPECIFIED THEREIN; ALSO THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.

THIS PROPERTY IS LOCATED IN ZONE A-9 (ELEV. 13.00) AS DETERMINED BY FEMA, FIRM COMMUNITY-PANEL NUMBER 450025 0125 E, DATED 11/4/92.

PIN:R200-021-00A-0134-0000

ELEVATIONS SHOT
8/13/13

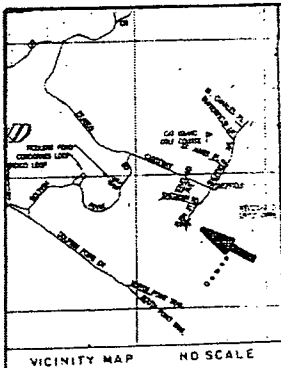


0 20' 40' 80' 120'
SCALE 1" = 40'
NOVEMBER 16, 2001

David S. Youmans
DAVID S. YOUNAMS R.L.S. 9765
BEAUFORT SURVEYING, INC.
1613 PARIS AVENUE (SUITE 213)
PORT ROYAL, SOUTH CAROLINA 299
(843) 524-3261 525-1175

EXHIBIT

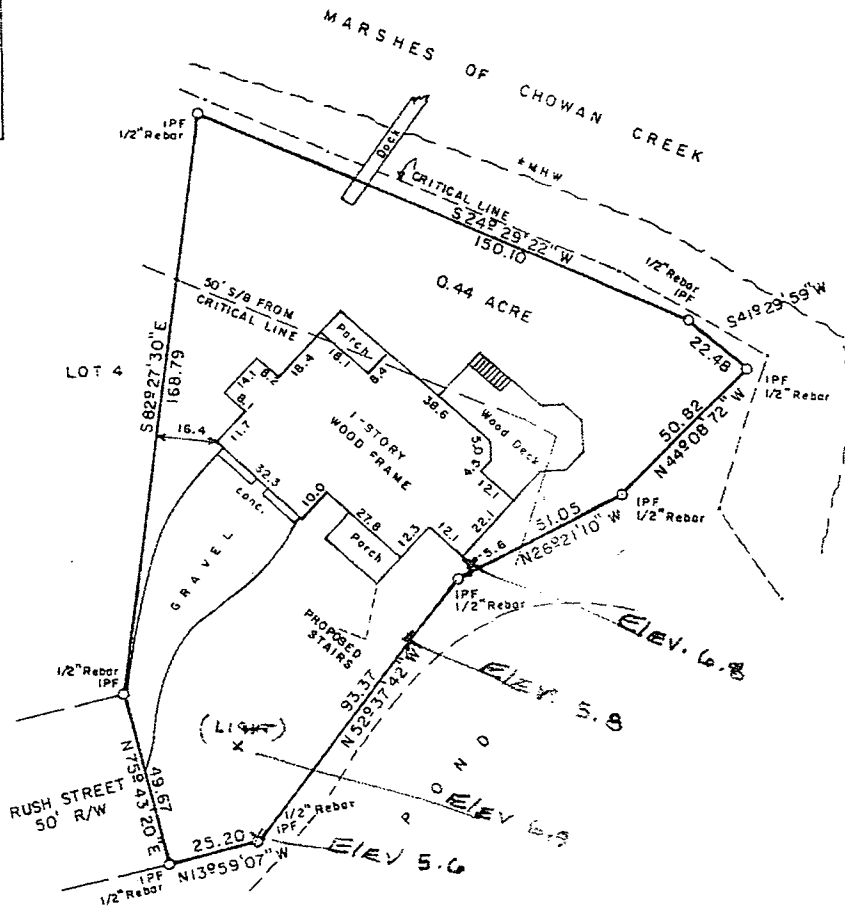
74



THE AREA SHOWN ON THIS PLAT IS A GENERAL REPRESENTATION OF THE CRITICAL AREAS, BY THEIR NATURE, ARE DYNAMIC AND SUBJECT TO CHANGE OVER TIME. BY GENERALLY DELINEATING THE PERMIT AUTHORITY OF THE DREDGE-DITCH, THE OFFICE OF DIRM IN ANY WAY VALVES THE RIGHT TO ASSERT PERMIT JURISDICTION IN ANY CRITICAL AREA ON THE SUBJECT PROPERTY. BUYERS ARE ADVISED TO HAVE THE PLAT REVIEWED BY COUNSEL PRIOR TO CONSTRUCTION OR CLOSING ON THE SALE OF THIS PROPERTY.

DATE 11/27/01
EXPIRATION DATE 11/27/04

SIGNATURE
Michael H. Hester



FOUNDATION SURVEY PREPARED FOR
JOHN NORTH

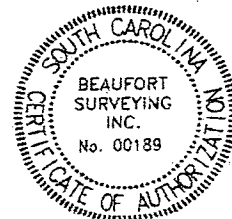
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THIS PROPERTY IS LOCATED IN ZONE A-9 (ELEV. 13.00) AS DETERMINED BY FEMA, FIRM COMMUNITY-PANEL NUMBER 450025 0125 E, DATED 11/4/92.

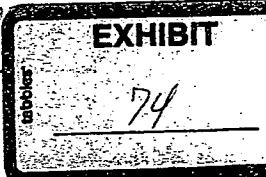
PIN:R200-021-00A-0134-0000

ELEVATIONS SHOT
8/13/13
[Signature]



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2

5 Sheridan

David Feron



2

7 Sheridan Road Cat Island

David Feron



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CLARK ST
EXHIBIT

20