



W. Marshall Taylor Jr., Acting Director

*Promoting and protecting the health of the public and the environment*

June 1, 2015

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JUN 05 2015

**SC SUPREME COURT**

The Honorable Daniel E. Shearouse  
Clerk, South Carolina Supreme Court  
Post Office Box 11330  
Columbia, SC 29211

Re: SCDHEC v. Ann Dreher  
Case Tracking No.: 2010181586

Dear Mr. Shearouse:

Please find enclosed for filing the original and six (6) copies of the Affidavit of Barbara Neale filed on behalf of the Appellant, South Carolina Department of Health and Environmental Control, in response to the Respondent's Motion to Strike and Exclude in the above-referenced matter. I would appreciate your returning a clocked copy of the affidavit, in the enclosed self addressed envelope.

By copy of this letter, I am serving all parties of record.

Thank you for your attention in this matter.

Very truly yours,

Bradley D. Churdar  
Chief Counsel

BDC/mdc

cc: Christopher McG. Holmes, Esquire  
Amy E. Armstrong, Esquire

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THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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APPEAL FROM ADMINISTRATIVE LAW COURT

The Honorable Ralph K. Anderson, III, Administrative Law Judge

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On Certiorari to the Court of Appeals of South Carolina  
Opinion No. 5011 (S.C. Ct. App., Heard May 23, 2012-Filed July 25, 2012)

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**SC SUPREME COURT**

South Carolina Department of Health and Environmental Control,  
Office of Ocean and Resource Management,

Petitioner,

v.

Ann Dreher,

Respondent,

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**AFFIDAVIT OF BARBARA NEALE**

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My name is Barbara Neale and I am the Senior Program Analyst at SCDHEC-OCRM (DHEC, the Department or OCRM). I have been employed with OCRM and previously with Coastal Council for 24 years.

In S.C. Coastal Conservation League v. S.C. Dep't of Health & Env'tl. Control, 363 S.C. 67, 610 S.E.2d 482 (2005), this Court found that S.C. Code of Regulations R. 30-12(N) was invalid because it was vague and there was no promulgated test to determine what "small island" meant.

In response, DHEC promulgated an emergency regulation addressing bridges to islands. The Department was concerned that irreparable harm would occur to the endangered and fragile natural resources on coastal islands.


DHEC acted in accordance with the Administrative Procedures Act, which included soliciting much input from a variety of stakeholder groups, resource groups and the public in order to gather as much relevant information as possible to ensure the access to coastal islands

regulation would be effective in protecting these natural resources. These stakeholder and resource groups worked closely with SCDHEC staff to develop the regulation that the Department submitted to the General Assembly.<sup>1</sup> All of the documents included in the South Carolina Coastal Conservation League's amicus brief are from files maintained by the Department that reflect the legislative process for promulgating the access to coastal islands regulation.

FURTHER, THE AFFIANT saith not.

  
BARBARA NEALE

SWORN TO AND SUBSCRIBED before me this date: June 1, 2015.

  
Notary Public for South Carolina

My Commission Expires: May 4, 2016

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<sup>1</sup> It is noteworthy that amongst a diverse group of stakeholders, there was 100% consensus with the language of the access to coastal islands regulation submitted to the General Assembly.

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

JUN 05 2015

Ralph King Anderson, III, Administrative Law Judge

SC SUPREME COURT

Opinion No. 5011 (S.C. Ct. App., Heard May 23, 2012 – Filed July 25, 2012)

South Carolina Department of Health and Environmental Control

Petitioner,

vs.

Ann Dreher

Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date she has served the *Affidavit of Barbara Neale on behalf of Petitioner South Carolina Department of Health and Environmental Control* in this matter upon the following, by placing copies of same in the United States Mail, first class postage prepaid, addressed to:

The Honorable Daniel E. Shearouse  
Clerk, South Carolina Supreme Court  
Post Office Box 11330  
Columbia, SC 29211

Christopher McG. Holmes, Esquire  
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Suite 124  
Mt. Pleasant, SC 29464

Amy E. Armstrong, Esquire  
SC Environmental Law Project  
Post Office Box 1380  
Pawleys Island, SC 29585



M. Denise Crawford

June 1, 2015