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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
In the Court of Common Pleas for the Ninth Judicial Circuit

The Honorable Bentley Price, Circuit Court Judge

Appellate Case No. 2022-000038

Clam Farm Partnership, LLC.....Respondent,

v.

The South Carolina Department of Health and Environmental
Control, Office of Ocean and Coastal Resource Management,
Charleston County and The City of Folly Beach..... Defendants

Of which The South Carolina Department of Health and
Environmental Control Office of Ocean and Coastal Resource
Management and The City of Folly Beach are the Appellants

**DESIGNATION OF MATTER FOR INCLUSION
IN THE RECORD ON APPEAL OF APPELLANT
THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL
CONTROL OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT**

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Department of Health and Environmental
Control Office of Ocean and Coastal Resource
Management*

Pursuant to Rule 209 of the South Carolina Appellate Court Rules, Appellant The South Carolina Department of Health and Environmental Control Office of Ocean and Coastal Resource Management ("Appellant") hereby designates the following materials to be included in the Record on Appeal in this matter in connection with its Initial Brief of Appellant. Each item designated **is to include all attachments or exhibits** to the original of the referenced item. Appellant intends to designate each and every item from the record that it cites in its Initial Brief of Appellant in this matter. Appellant expressly reserves the right to seek supplementation of the record pursuant to Rules 209 and 212, SCACR. Appellant designates the following matters for inclusion in the Record on Appeal (including any and all exhibits or attachments thereto):

1. February 5, 2021 Plaintiff Clam Farm Partnership, LLC's Complaint
2. April 26, 2021 The South Carolina Department of Health and Environmental Control Office of Ocean and Coastal Resource Management's Answer
3. June 17, 2021 Plaintiff Clam Farm Partnership, LLC's Motion for Partial Summary Judgment and Preliminary Injunction, with all exhibits, including:
 - Ex. 1 Overhead of Subject Property
 - Ex. 2 February 15, 2007 letter from Jill C. Stewart to Phil Mims
 - Ex. 3 January 12, 2021 Joint Resolution
 - Ex. 4 OCRM Plat
 - Ex. 5 January 19, 2021 Email from Mary D. Shahid to Matthew Tillman and Daniel Orvin (and all emails in that chain)
 - Ex. 6 Final Plat
 - Ex. 7 Amended and Restated Contract of Sale
 - Ex. 8 Tim Stewart Affidavit
 - Ex. 9 Site Photograph
 - Ex. 10 October 20, 2020 Email from Aaron Pope to Roger Hunt
 - Ex. 11 January 19, 2021 Email from Mary Shahid to Matthew Tillman

and Daniel Orvin (and all emails in that chain)

- Ex. 12 November 2, 2020 Letter from Kathy Kawalchick to Timothy Stewart (Notice to Comply)
- Ex. 13 January 8, 2021 Letter from Morgan Flake to Mary Shahid
- Ex. 14 November 9, 2020 Email from Morgan Flake to Timothy Stewart and Ron Felkel (and all emails in that chain)
- Ex. 15 November 24, 2020 Letter from Mary Shahid to Kathy Kowalchick
- Ex. 16 November 25, 2020 Email from Mary Shahid to Matthew Tillman and Daniel Orvin (and all emails in that chain)
- Ex. 17 January 19, 2021 Email from Mary Shahid to Matthew Tillman and Daniel Orvin (and all emails in that chain)
- Ex. 18 January 6, 2021 Letter from Mary Shahid to Blair Williams, Kathy Kawalchick and Morgan Flake
- Ex. 19 Affidavit of Ron Felkel
- Ex. 20 February 24, 2021 Letter from Shannon Hicks to Ron Felkel
- Ex. 21 April 8, 2021 Cease and Desist Directive
- Ex. 22 Critical Line Drawing
- 4. September 20, 2021 The South Carolina Department of Health and Environmental Control Office of Ocean and Coastal Resource Management's Memorandum in Opposition to Motion for Partial Summary Judgment and Preliminary Injunction
- 5. September 23, 2021 Transcript of Hearing (page 19)
- 6. November 18, 2021 Order Granting Clam Farm Partnership, LLC's Motion for Partial Summary Judgment and Preliminary Injunction
- 7. November 29, 2021 The South Carolina Department of Health and Environmental Control Office of Ocean and Coastal Resource Management's Notice of Motion and Motion to Alter or Amend Judgment and/or for Reconsideration
- Ex. A Affidavit of Blair Williams
- Ex. B January 6, 2021 Email and Letter from Mary Shahid

Ex. C Section 3.1.7.C.II of the NPDES CGP

Ex. D February 24, 2021 Letter from Shannon Hicks to Ron Felkel

8. December 14, 2021 Order Denying Defendant The South Carolina Department of Health and Environmental Control Office of Ocean and Coastal Resource Management's Motion to Reconsider
9. January 6, 2022 Notice of Appeal of Defendant The South Carolina Department of Health and Environmental Control Office of Ocean and Coastal Resource Management's Motion to Reconsider (with attachments)

Appellant The South Carolina Department of Health and Environmental Control Office of Ocean and Coastal Resource Management certifies, pursuant to S.C.A.C.R., Rule 209(c), that the designations set forth above are relevant to the appeal in this matter, and that it has not designated any matter that is irrelevant to the issues before the Court.

March 9, 2022

BARNWELL WHALEY PATTERSON &
HELMS, LLC

By: 

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PROOF OF SERVICE

I certify that I have served the Designation of Matter for Inclusion in the Record on Appeal of Appellant The South Carolina Department of Health and Environmental Control Office of Ocean and Coastal Resource Management on the above-referenced Respondent and all other parties by depositing a copy of it in the United States Mail, postage prepaid, on March 9, 2022, addressed to their attorneys of record:

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