

SUMMARY RESPONSE TO COMMENTS AND QUESTIONS
South Carolina Department of Health and Environmental Control
Bureau of Land and Waste Management
Division of Mining and Solid Waste Management

Approval of the Application for Mine Operating Permit I-002242
King Tract, LLC
Southern Mine- King Tract
September 17, 2020

This Summary Response to Public Comments (Response) outlines specific issues, within the jurisdiction of the South Carolina Department of Health and Environmental Control's (DHEC) Bureau of Land and Waste Management (BLWM), considered in review of the application submitted for the Southern Mine- King Tract (King Tract) on Sewee Road in Charleston County. This Response is being provided to address many of the issues raised concerning the mine application. This Response is specific to DHEC's technical review for the Mine Operating Permit under the authority of the South Carolina Mining Act (Act).

General Overview: DHEC's Mining and Solid Waste Division has made a final decision to issue a mine operating permit after careful review of all information submitted by the applicant, as well as all comments received from governmental agencies and interested persons. The permit will require the mine operator to comply with the South Carolina Mining Act and the South Carolina Code of Regulations.

King Tract, LLC has been granted coverage under a National Pollution Discharge Elimination System (NPDES) permit and a Mine Operating Permit in order to construct and operate the King Tract. Coverage under the *NPDES General Permit for Discharges Associated with Nonmetallic Mineral Mining Facilities* (SCG731329) was issued by DHEC's Bureau of Water on June 24, 2020. Additionally, on May 12, 2020, King Tract was certified conditionally consistent with the requirements for Coastal Zone Consistency (CZC) from the DHEC's office of Ocean and Coastal Resource Management (OCRM).

DHEC maintains public records that are available for review, upon request, in accordance with the state's Freedom of Information Act. All files can be reviewed by the public by submitting an FOI request through DHEC's Freedom of Information (FOI) Office. Please visit the FOI Office page of the DHEC webpage: <https://www.scdhec.gov/about-dhec/request-copies-public-records-foi>.

The South Carolina Mining Act: The legislative purpose of the Act is to provide that: (1) the usefulness, productivity, and scenic value of all lands and waters involved in mining within the state receive the greatest practical degree of protection and restoration; and that (2) no mining may be carried on in the state unless plans for the mining include reasonable provisions for protection of the surrounding environment and for reclamation of the area of land affected by mining.

The Act provides specific criteria for review of mine permit applications by DHEC. The Act does not supersede local zoning ordinances. Issues related to zoning (i.e., property value, industrial development, quality of life, local economy, operating hours) are under the jurisdiction of county and municipal planning departments and governed by zoning and land use regulations. DHEC has not been given the authority to consider the effect of a mining operation on property values.

DHEC is required to evaluate the application in a timely manner and to consider relevant environmental issues.

Application for the Mine Operating Permit: DHEC received the Application for a Mine Operating Permit from King Tract, LLC for the Southern Mine- King Tract on September 21, 2018. An *Intent to Mine* notice was published in *The Post and Courier* newspaper on March 1, 2019 and March 8, 2019. The notice was mailed to adjacent landowners, government and regulatory agencies, and other interested parties. The comment period ended March 25, 2019.

A public hearing was held by DHEC on October 10, 2019. The *Notice of Public Hearing* was mailed to interested parties on September 10, 2019. The *Notice of Public Hearing* was published in *The Post and Courier* newspaper on September 10, 2019 and September 17, 2019. The comment period was extended through October 25, 2019.

On July 7, 2020, DHEC provided a courtesy notice of a Draft Mine Operating Permit to all concerned citizens and received comments through July 22, 2020. This summary report responds to comments, questions, and requests received throughout the application review process beginning at the initial application notice on March 1, 2019 and ending on July 22, 2020.

Permit Application Specifications: King Tract, LLC is permitted to mine sand. The permitted area of this mine operation is a tract of land totaling 1,329.47 acres (Charleston County TMS # 625-00-00-007). The current topography of the permitted area is approximately 20ft. above mean sea level (msl). The operation is permitted to excavate to a maximum depth of -5ft. msl or 25ft. below ground surface (measured from the original ground surface elevation to final elevation at that location).

Land within a mine operating permit is designated according to the permitted use (*Affected acres, Future Reserves, and Buffer Areas*). The 1329.47 **acre Permitted area** comprises *Affected acres* and *Buffer Areas*. The following list provides an area description, type of activities, and designated acreage for each component of the Permitted area, if approved:

1) **Affected Area – 59.47 acres.** The affected area comprises all lands to be disturbed by mining activities (pit, sediment basins, haul roads, berms, processing area, overburden storage piles, etc.). **59.47 acres are currently bonded and may be affected.** The affected area is subject to reclamation requirements.

2) **Future Reserves – 928 acres.** Prior to the initiation of activity in future reserves, the operator shall submit detailed mine and reclamation plans to DHEC for approval.

3) **Buffer area – 342 acres.** Buffer is land not to be disturbed by mine activity. Buffers are used to lessen potential effects to surrounding land (setbacks to property boundaries, public roads, wetlands, wildlife, etc.). Any land disturbance not consistent with accepted silviculture practices in the buffer areas would require the Mine Operating Permit to be modified *prior* to any such disturbance. Appropriate silviculture practices may be utilized to manage upland buffer areas allowing the thinning of timber under the direction of a SC Licensed Professional Forester.

Mine Reclamation: The Act defines reclamation as the reasonable rehabilitation of affected land (mined or otherwise disturbed) to a useful purpose and the protection of natural resources in surrounding areas. The Act does not require the land disturbed by mining to be returned to its original state. Reclamation of the mine to a specific land use is based on many factors;

including, but not limited to the method of mining, the material mined, the geology and topography of the area, size, surrounding land uses, and the desired use for the former mine site. Lakes or ponds, grassland, woodland, cropland, parks or recreational developments, or residential or commercial developments may be acceptable reclamation objectives.

King Tract, LLC is currently permitted to affect 59.47 acres. A reclamation bond has been submitted based on the requirements of the Act and Regulations. The reclamation bond will remain in effect with DHEC until the mine site has been reclaimed to regulatory standards and released. Reclamation bonds are in place to ensure proper reclamation of disturbed areas (it does not serve as financial assurance for potential off-site impacts).

The approved reclamation plan states the site will be reclaimed to pond and grasslands. Pit slopes will be vegetated and be graded to no steeper than a 3H:1V gradient. Final pond slopes will be graded to no steeper than a 3H:1V gradient to a depth greater than 4ft on, at least, 50% of the water surface. Other disturbed areas will be graded and vegetated as grassland. Once all mining has ended and the site meets reclamation standards, the mining permit would be canceled; at that time the Mining & Reclamation Program has no further jurisdiction over land use.

As many of the comments received addressed the same concerns, DHEC has responded to comments and concerns by general category as follows:

Groundwater Impact Concerns: Comments and concerns were received regarding the impact the proposed mine may have on water supply wells in the area. DHEC has considered the potential effect of mining activities on the quantity of groundwater available to nearby water supply wells. With a maximum pit depth of 25 feet, mining operations at the Southern Mine - King Tract will intersect the water table. Water encountered in the active mine area will be pumped and discharged into a retention pond. Only a volume of water needed to maintain a dry mine area will be pumped. Pumping is not continuous and will occur periodically as needed. DHEC has conditioned the permit to require that a flow meter be installed on the pump and a pumping log be maintained. Water that discharges from the retention pond will flow through a lengthy network of ditches where infiltration into sandy soils will occur. This infiltration will provide some recharge to the water table.

During the public hearing on October 10, 2019, DHEC handed out a well survey form to solicit information on water supply wells. Additionally, DHEC conducted an internal search of well information for adjacent and nearby residences of the Southern Mine - King Tract. The well surveys and internal search revealed that the known well depths in the area are in the range of 140 to 220 feet deep. Given the depth of these wells, the depth of mining limited to 25 feet, and the distance of the known wells from the affected mine area, DHEC does not anticipate there being any adverse impacts on these water supply wells. However, as a further precaution, the operator is required to repair, deepen, or re-drill any drinking water, or water supply wells that DHEC determines to be adversely impacted by dewatering activities at the mine. This requirement is a mine permit condition.

Limestone Sinkhole Concerns: Comments were received stating concerns that the dewatering at the King Tract may cause sinkholes in the limestone beneath the immediate area and within Francis Marion National Forest. DHEC has several limestone mines throughout the Coastal Plain of SC and some near the coast at a similar distance as the King Tract. Limestone is encountered deeper than the proposed mine depth of 25 feet. There are several operating sand mines in the Awendaw area and DHEC has no knowledge that limestone has been

encountered at 25 feet. It has been DHEC's experience that if the water table is not dewatered below the top of the limestone, there is no significant potential for sinkhole development in the area in and around the mine. The known well depths around the King Tract range from 140 to 220 feet deep. They are drilled to this depth to access the deep bedrock aquifer. There is no indication that limestone will be encountered while mining sand at the shallow depth of 25 feet, therefore the risk for sinkhole development is very minimal to non-existent.

Concerns about Flooding Potential: Comments and concerns were received that water discharged from the mine would cause flooding. The Act and regulations do not allow for excessive drainage accumulation or release of excess water that may damage adjoining property of other owners from dewatering activities. The permit is conditioned that if dewatering causes flooding conditions to property downstream, the operator is to cease discharge of water from the mine. DHEC does not anticipate the volume pumped from the active pit to cause flooding downstream. The water will be pumped to a retention basin and flow through a lengthy network of ditches where infiltration into sandy soils will occur. DHEC has required that a flow meter be installed on the pump and a pumping log be maintained so that the flow from the pit can be monitored. This information will be used if there are flooding concerns downstream so that an accurate determination can be made by DHEC as to the cause of potential concerns.

Wetland Protection: Comments were received concerning the direct and indirect impacts to wetlands within the permitted area. A wetland delineation has been completed on the 59.47-acre Phase II affected area. The U.S. Army Corps of Engineers (USACE) issued an Approved Jurisdictional Determination (AJD) dated August 7, 2018 identifying 3.78 acres of non-jurisdictional isolated wetlands within the Phase II 59.47 acres. Of these non-jurisdictional isolated wetlands, 3.48 acres will be excavated per the CZC Determination from OCRM. These excavated wetlands will be mitigated for through the purchase of mitigation credits. The 3.48 acres of wetlands consist of six isolated wetland areas ranging from 0.03 acres to 1.9 acres in size.

Wetlands in the future reserves shall be protected by a minimum of 75-foot undisturbed buffer. A wetland delineation and jurisdictional determination by the USACE shall be provided to DHEC prior to any activity in the future reserves. DHEC's Mining Section will review this information and OCRM will determine coastal zone consistency prior to any mining activity in the future reserves. Any proposed direct wetland impacts in the future reserves would require OCRM and USACE approval and appropriate compensatory mitigation prior to approval by DHEC.

Concerns about the Coastal Zone Consistency (CZC) Determination: The CZC determination is a certification of a state permit that operates in the Coastal Zone. The determination is based on the enforceable policies contained within the *SC Coastal Zone Management Program* and is provided to the Agency permit program area prior to issuance of a permit. The current consistency determination is for the 59.47 affected acres; any modification to expand into future reserves will require OCRM certification.

Prior to King Tract, LLC acquiring the King Tract, the overall tract was owned by International Paper Company and was mechanically converted to loblolly pine plantation for providing timber products to the Georgetown Mill. According to the justification provided to DHEC's OCRM office by the wetland consultant, the wetland areas proposed for excavation within the 59.47-acre Phase II area have been limited to impaired areas. These areas lack the characteristic dune swales and ridge complex due to the past site preparation for pine production. These impaired wetland areas are consistent with those that are lacking habitat diversity and full wetland functions due to prior silvicultural activities. Restoration activities would be required to recover

full, natural functionality. In addition, impacts to these wetland areas (along with the suitable compensatory mitigation) is preferable as opposed to higher functioning wetland areas within the vicinity of the project area boundary. The wetland mitigation credits will come from a wetland mitigation bank that is authorized to service the area where the project site is located.

Discharge Monitoring and Sediment Control: King Tract is permitted to discharge mine dewatering through an outfall in accordance with the *NPDES General Permit for Discharges Associated with Nonmetal Mineral Mining Facilities (SCG731329)*. All discharged water will be routed to existing King Canal and outfalls to waters associated with the Atlantic Intracoastal Waterway. Discharges from the outfall will be subject to numeric effluent limits (total suspended solids and pH) and other permit requirements that are protective of human health and the environment.

The primary control for sediment will be to contain the stormwater (runoff from rainfall) from the excavated area in the pit. This water will be conveyed to a sediment basin designed to allow the sediment to settle out of the stormwater prior to being discharged. The NPDES permit requires the operator to have proper Best Management Practices (BMPs) and a Stormwater Pollution Prevention Plan (SWPP) in place. Furthermore, the operator shall operate the King Tract in accordance with the approved mine maps.

The NPDES general permit requires that stormwater outfalls have appropriate BMP's to minimize the discharge of pollutants. The permit also requires benchmark monitoring of stormwater discharges. Benchmark monitoring involves collecting a quarterly sample during the first 30 minutes of the stormwater discharge and analyzing it for Total Suspended Solids. If the average of the four quarterly benchmark samples is greater than 100 mg/l Total Suspended Solids, then the operator must either improve their BMPs or document that it is not feasible to improve their BMPs. If the average of the four quarterly benchmark samples is less than 100 mg/l Total Suspended Solids, benchmark sampling is no longer required during this permit term for that outfall.

NPDES General Permit | Discharge Water Quality | pH Violations: Many comments and concerns were received regarding the NPDES general permit, quality of discharged water, and historic pH violations. This Response is specific to the BLWM review of the Mine Operating Permit application. Therefore, DHEC's Bureau of Water's (BOW) Industrial Wastewater Permitting Section's Memorandum regarding the approved modification of the NPDES SCG731329 is attached to this Response to address these concerns.

Water Quality | Contaminates | Fertilizer Use: DHEC received comments and concerns that water quality and contaminants would be generated by the proposed mining. There were also concerns that the use of fertilizer proposed in the Reclamation Plan would contaminate the ground and surface water. The proposed mining at the King Tract is strictly an excavation and hauling operation. No chemicals are used in this process. The mine permit requires the operator to establish procedures to minimize fuel spillage or incidental spillage of other petroleum products during storage, refueling of equipment or in the performance of routine maintenance on equipment. Any materials contaminated from contact with petroleum products shall be removed from the site and disposed of properly to prevent contamination to the ground and surface water resources.

The fertilizer rates described in the reclamation plan are based on soil sampling and SC Department of Transportation recommendations. DHEC does not anticipate fertilizer use at these rates above the water table to cause ground or surface water contamination.

Saltwater Intrusion: Comments were received with concerns that the operation of the King Tract would cause saltwater intrusion in drinking water wells. The known drinking water well depth range of 140 to 220 feet indicates that the freshwater aquifer extends well below the 25-foot proposed depth of the mine. DHEC does not anticipate that the limited pumping from the mine at a shallow depth would cause saltwater to intrude into the freshwater aquifer.

Buffers, Setbacks, and Visual Impact: Comments were received with concerns about buffer setback distances and amount of buffer. Buffer is any acreage that will not be impacted by any mining activities, including undisturbed buffers between wetlands and/or cultural resources, perimeter buffers for visual screening, and any land that will be undisturbed and remain naturally vegetated. The Act and Regulations do not have specific requirements for buffer areas. The size of the buffer and setback from the permit boundary is dependent on the nature of the mine, the neighboring land use, and the purpose of the buffer area.

Prior to the public hearing, the proposed buffer area totaled 135 acres. In response to concerns heard at the hearing, future reserves were changed to buffer from the southern property boundary to the powerline easement. This additional buffer distance ranges between 600-1,100 feet. Buffer area was also increased along Sewee Road and Come About Way from 50 to 100 feet. Southern Mine - King Tract now has 342 acres of buffer within the 1,329 acres of permitted area.

The vegetation in the buffer will remain in its current state or be enhanced to provide for visual screening. Appropriate silviculture practices may be utilized to manage buffer areas that will allow thinning of timber under the direction of a SC licensed Professional Forester. Any land disturbance not consistent with accepted silviculture practices in the buffer areas will require the Mine Permit to be modified prior to such disturbances. During active mining in Phase II, in addition to a 50-foot undisturbed buffer, an earthen berm will be constructed along the mine side of Sewee Road. All wetlands in future reserves will be buffered by a minimum 75-foot undisturbed buffer.

Noise: The majority of noise generated with mining activity is associated with motorized vehicles and equipment. The level of noise perceived at residences is usually related to the distance from the source of the sound, weather conditions, topography, and the type and condition of the equipment. Equipment such as trucks, dozers, and loaders usually have an average noise level determined by the manufacturer. Most of the equipment averages 75 to 90 decibels (db) at a distance of 50 feet. Sound decreases (attenuates) with distance at the rate of about 3 to 5 db each time the distance between the source and the person hearing it is doubled. The mine operating permit requires Southern Mine - King Tract to maintain equipment (i.e. mufflers on trucks, trackhoes, pumps, etc) to minimize noise from the site.

The combination of undisturbed vegetated buffers, maintenance of equipment, and distance from the operation will consequently reduce the potential for sound heard offsite. There may be instances when the sound of equipment (back up alarms, trucks, etc.) can be heard, but the decibel levels should not be excessive.

Operation Hours and Light Pollution: Comments were received regarding hours of operation and the use of lights at night. The Mine Permit is conditioned to restrict operating hours to 7am to 5:30pm Monday through Friday with no operation on Saturday and Sunday. Further, no operations are allowed at night, weekends, or holidays. No artificial lights are allowed.

Public Safety: Public safety around a mine site is always a concern. A primary method to ensure public safety is controlling access to the mine property. A gated entry and warning signs will minimize physical hazards to persons and adjoining land uses. Additionally, natural barriers (e.g., streams, wetlands, vegetation) and constructed berms provide a deterrent for accidental entry into a mine site. If approved, the combination of these barriers and site characteristics will limit public exposure to the operations at the King Tract.

The risk of accidentally encountering a highwall will be minimized by excavating the site on a slope. Slopes at final reclamation will be constructed no steeper than 3H:1V.

Traffic: Operators of all vehicles have the right to use public roads for legitimate purposes if speed and weight limits are observed. A common concern expressed from the public for mining operations is the increase of truck traffic hauling mined material.

The SC Mining Act does not specify traffic as an issue for which an application for a mining permit can be denied by DHEC. DHEC has jurisdiction to evaluate impacts to public roads only as it pertains to the physical effects from an operation (e.g. undermining, etc.). The mine operator is responsible for cleaning any material tracked or spilled beyond the gate onto the road surface.

Other concerns with road systems, including use of the roads, are under the jurisdiction of S.C. Department of Transportation, S.C. Public Service Commission, or Charleston County Department of Public Works.

Dust: Fugitive dust emissions from the mining activities is a concern with mining operations. The Division of Mining and Solid Waste Management is responsible for regulating dust emissions from a mining site. Sources of dust include moving equipment, handling of the mineral resource and overburden, truck traffic, and wind erosion.

At active sites, the major contributors of dust are equipment and truck traffic. Wind erosion of areas stripped of vegetation and material stockpiles are also sources for potential dust. Properly constructed access roads with dust suppression methods (i.e., water trucks, sprinklers) is the most effective way to manage dust from traffic. King Tract, LLC will use a watering truck. The frequency of watering will depend on weather conditions and volume of traffic.

Natural Resources | Wildlife | Francis Marion Forest and Cape Romain Wildlife Preserve:

As surface mining does alter the existing habitat, native wildlife will be impacted. The abundance and diversity of species are influenced by the availability of food, water and cover. With the close interaction of these factors, changing one may well alter the animals in the mine area.

With small operations, wildlife usually moves due to clearing the land, excavation of the minerals and traffic. The extent wildlife is affected depends on planning, size of the operation, life of the mine, installing proper BMPs and the final reclamation of the site. In most instances, the impacts on wildlife are short-term due to the brief period of active mining and reclamation.

S.C. Department of Natural Resources (SCDNR) offers comments on the application as part of the review process. The intent of the SCDNR review is to assess the impact of mining on the requested area, with special attention to state or federally listed endangered/ threatened species. SCDNR, US Fish and Wildlife Service (USFWS), and the US Army Corps of Engineers did not comment on the presence or potential for any state or federal threatened or endangered

species that would be adversely affected by the operation. In addition, no concerns were expressed regarding the potential adverse impacts to the Cape Romain Wildlife Preserve or Francis Marion National Forest. Prior to activity in Future Reserves, DHEC will consult the USFWS and SCDNR concerning the presence of threatened/ endangered species to determine if a species survey should be conducted.

With the lack of threatened/ endangered species, the primary effect of mining on existing wildlife would be the loss of habitat. In contrast to a threatened or endangered species that have very specific demands for survival, these species would be adaptable to a wide range of requirements. Approximately 59.47 acres of a total 1329 acres will be affected by mining and a minimum of 342 acres will be maintained as buffer. The maintenance of buffer areas, excluding the impaired, isolated wetlands planned for excavation, will protect wetlands and minimize displacement of animals from the areas mined.

Environmental Impact Statement (EIS) AND Phase I Environmental Assessment: A comment was received asking if an EIS or a Phase I Environmental Assessment was completed for the proposed King Tract. An EIS is only authorized for federally permitted projects under the National Environmental Policy Act (NEPA). Phase I Environmental Assessments are typically conducted to address potential liability of possible contaminants on real estate holdings. These are often used for real estate transactions to inform the new property owner and lending institutions of any potential contamination liability that may exist on the property from past land uses. The Act and Mining Regulation address impacts from mining operations to protect the environment, the public and ensure reclamation.

Inspections: S.C. Mining Act 48-20-130 and Regulation 89-240 allow DHEC to conduct inspections and investigations of the permitted area at any reasonable time for the purposes of determining whether the operator has complied with the reclamation plan, requirements of the Act, any rules and regulations promulgated thereunder, or the terms and conditions of the operating permit. The Mining Program will conduct routine site inspections and compliance inspections, as needed.

Cultural and Historical Resources: The State Preservation Office (SHPO) reviewed the application for possible adverse effects to significant cultural and historical sites. Chicora Foundation, Inc. conducted a reconnaissance survey in August 2019 and reported there were no significant cultural resources in the Phase II 59.47-acre area. SHPO concurred with these findings in a letter dated September 27, 2019. Prior to activity in Future Reserves, King Tract, LLC will contact SHPO concerning the need for additional cultural resource surveys. DHEC and SHPO must review and approve the information submitted prior to any mining activity.

General Opposition: DHEC received several comments requesting denial of a permit. While DHEC appreciates all comments received, it is important to recognize that we do not have the authority to make permitting decisions based on community, business, employee, or customer approval or disapproval of a proposed operation. DHEC is required by law to make a decision based only on the technical review of an application and the regulatory requirements in place at the time of that review. In 48-20-70 of the Act, DHEC is required to grant an operating permit to the applicant if there are no technical reasons to deny the permit.

Land and Property Value/Economic Impact: Comments were received regarding the impact to property values and the possible economic impact. All zoning decisions are made at the local level by a city or county zoning authority, usually before a permit request is received. DHEC cannot dictate where a facility locates or factor property value impacts into permitting decisions. Contact your local city or county council representatives for more information on how to get involved in local zoning and planning issues.

Zoning: Concerns were raised about the location of this mine given the various surrounding land uses. Appropriate or compatible land use is determined at the local level. DHEC has no authority regarding zoning in Charleston County or the Town of Awendaw. Specifically, the S.C. Mining Act states in Section 48-20-250 *"No provision of this chapter supersedes, affects, or prevents the enforcement of a zoning regulation or ordinance within the jurisdiction of an incorporated municipality or county or by an agency or department of this State, except when a provision of the regulation or ordinance is in direct conflict with this chapter."*

Community / Quality of Life: Comments were received regarding the potential impacts to the community's way of life. DHEC cannot make its permit decisions based on these factors. The permit decision is based on DHEC's technical review of the permit application and the Act and Regulations in place at the time of the DHEC's review.

Future Reserves / Modifications: Comments were received with concerns that modifications to access future reserves would not be public noticed. The King Tract Permit has several conditions that shall be satisfied prior to approval of mining activity in the future reserve areas as follows:

- The operator shall maintain a minimum 75-foot undisturbed buffer between land disturbing activities and wetlands in the future reserve areas shown on the mine map. A jurisdictional determination by the US Army Corps of Engineers must be provided, reviewed, and approved by DHEC's Mining Section prior to mining activity in the future reserve areas. No land disturbance activities within the future reserve areas of this Mine Operating Permit shall commence until an approval letter is given by DHEC.
- Prior to mining activity in future reserves, the operator shall obtain a Coastal Zone Consistency Determination by DHEC's OCRM.
- Prior to mining activity in future reserves, the operator shall contact SHPO concerning the need for additional cultural resource surveys. DHEC and SHPO shall review and approve the information submitted prior to any mining activity.
- Prior to mining activity in future reserves, DHEC will consult the US Fish and Wildlife Service and SCDNR concerning the presence of threatened / endangered species to determine if a species survey should be conducted.

Modification requests to access the future reserve areas will be considered minor if they satisfy these conditions, and therefore would not require a public notice. However, if a request is received that goes beyond these conditions it may be considered substantial and a public notice may be required.



Memo

To: Patty Barnes
Water Facilities Permitting Division

From: Brett Caswell *BMC*
Industrial Wastewater Permitting Section
Water Facilities Permitting Division

Subject: Permit Modification
King Tract, LLC
Southern Mine – King Tract

Date: June 19, 2020

The Bureau of Water received this modification request on January 31, 2020 to expand the site's affected acreage to mine fill dirt from the current 5 acres to 59.47 acres. Pursuant to this modification, there were questions raised by the community regarding this mine and several others in the Awendaw area of Charleston County. From a water quality standpoint, these issues were related to low pH in the wastewater discharge. Investigation of this facility's DMRs revealed several violations of the pH limit of 6.5 to 8.5 allowable for this site (the Intercoastal Waterway is shellfish harvesting waters). Upon this discovery, a Notice of Alleged Violation (NOAV) was issued to the facility on December 17, 2019, and in response to this a Corrective Action Plan (CAP) was required to be submitted, which the facility did on April 21, 2020.

The CAP addressed the lack of monthly discharge monitoring reports (DMRs) submitted from the July 2018 to August 2019 reporting periods and also the violation of permit limits for pH from August through October 2017 and from March through June 2018.

The facility has agreed to resume submitting monthly DMRs, even in the months when they have not discharged. While there is no ongoing discharging of wastewater from the general permit area covered under mining permit GP1-002089 covered by the current NPDES permit coverage, discharging will continue upon approval of mining permit I-002242 and this NPDES modification.

Low pH of the surface water is correlated to the naturally occurring vegetative degradation (pine) in the area. The facility was proactive in implementing the following actions to come back into compliance in order to consistently meet the permit limits for pH: lime treatment of the existing GP mine area (direct treatment to surface water); lime treatment of the existing sediment retention basin (direct treatment to surface water), and; broadcast lime treatment to the bank of existing GP mine area. Samples were taken and the results submitted to the Department. The pH reading in the pit before application of lime was 4.69. After the lime was applied in the manner described above, a sample was taken again that reflected a value of 7.46, which is within the range of the permit. Therefore, lime application as noted above should be sufficient to regulate the pH. These sampling protocols and the augmentation practices will continue for the duration of the issued mine permit and modified NPDES general permit coverage.

Given the above information, the Department approves the modification to expand and mine up to an affected acreage of 59.47 acres. This mining coverage is located within one of the coastal counties regulated by the Office of Coastal

Resource Management (OCRM). As part of the general permit's Coastal Zone Consistency determination (CZC), OCRM requires the following conditions in any approval letters for mines in the coastal zone:

1. All construction BMPs must be installed, inspected and maintained to retain sediment onsite and to protect adjacent wetlands and waters (if any) through the life of the project. Upon completion of construction activities, all disturbed (includes undeveloped) areas, including those impacted for access, must be immediately stabilized.
2. If appropriate, best management practices to include the use of rock check dams, spill pads, diffusers and other means of appreciable erosion control must be located at the point of discharge to prevent released wastewater from negatively effecting receiving wetlands, if any.
3. In the event that any historic or cultural resources and/or archaeological materials are found during the course of work, the applicant must notify the State Historic Preservation Office and the South Carolina Institute of Archaeology and Anthropology. Historic or cultural resources consist of those sites listed in the National Register of Historic Places and those sites that are eligible for the National Register. Archaeological materials consist of any items, fifty years old or older, which were made or used by man. These items include, but are not limited to, stone projectile points (arrowheads), ceramic shards, bricks, worked wood, bone and stone, metal and glass objects, and human skeletal materials.

Please note the changes to this permit coverage as noted in bold below.

General Permit: SCG731329

PSC or Site Name: Marcinak Construction Co., Inc./Southern 1 Mine **(NEW)**

Mining Permit: I-002242 **(NEW)**

Affected acreage: From 5 to 59.47

Receiving Waters: Tributary to the Atlantic Intercoastal Waterway (SFH)

Contact: Mr. Chad Marcinak

Contact Phone #: (843) 906-5140 **(NEW)**

Company Phone #: (770) 457-1611 **(NEW)**

E-mail: admin@marcinakconstruction.com **(NEW)**

NPDES Address: Marcinak Construction Co., Inc.

P.O. Box 2465

Mt. Pleasant, SC 29465

Site Address: Line 1: Hwy 17 & Seewee Road

Line 2:

City: Awendaw State: SC Zip: 29429

County: Charleston



Notice of Intent (NOI)
NPDES General Permit for Discharges
Associated with Nonmetallic Mineral Mining Facilities
SCG730000

Submission of this Notice of Intent constitutes notice that the party identified in this form intends to be authorized by a NPDES permit issued for Nonmetallic Mineral Mining discharges in a State location identified in this form. Becoming a permittee obligates such a discharge to comply with all terms and conditions of the permit. **ALL NECESSARY INFORMATION MUST BE INCLUDED WITH THIS FORM. AN ANNUAL OPERATING FEE OF \$100 IS REQUIRED FOR COVERAGE UNDER THIS PERMIT. See Instructions.**

I. Site/Operator Information

Name of the Mining or Pit Site: Southern Mine - King Tract
 Site Address: S-10-584 (Seewee Road)
 Site City: Awendaw State: SC Site County: Charleston Site ZIP (if available): 29429
 Tax map # (list all): Portion of TMS #625-00-00-007
 Company/Operator Name: King Tract, LLC, Attn: Jason A. Smithgall Phone: (770) 457-1611
 Company/Operator Physical Address (do not use PO Boxes): 270 Carpenter Drive, Suite 520
 City: Atlanta State: GA ZIP: 30328 Operator Status: Federal State Public Private

II. Site Contact Information

Contact Name: Chad Marcinak Phone: (843) 906-5140
 Contact Title: Vice President/Marcinak Construction Co., Inc.
 Mailing and Billing Address: P.O. Box 2465
 City: Mount Pleasant State: SC ZIP: 29465 Email (optional): admin@marcinakconstruction.com

III. Site and Discharge Information

- A. Materials to be Mined: sand, fill dirt (if material is mined solely as fill dirt, write fill dirt in the blank, not "sand" or "clay")
 B. SIC or Activity Codes: Primary: 1499 2nd: _____ 3rd: _____ 4th: _____
 (The primary SIC codes for nonmetallic mining activities are in the 1400 series, for example fill dirt pits have the SIC code of 1499. Please list any other SIC codes that apply to this activity.)
 C. Total number of acres to be affected by the mining activity: 59.47 acres
 D. Does the site currently have Nonmetallic Mineral Mining Discharge General Permit coverage?
 If Yes complete this permit number SCG73; otherwise mark No
 E. List any other NPDES or ND Permit numbers for the site: SC G731329 SC ND
 F. Is this site exempt from the Mining Act? Yes, Reason for exemption: _____ No, Mining Permit #: I-002242
 G. Will this site discharge mine dewatering (see instructions for definition)? Yes No
 Will this site discharge a process-generated wastewater (see instructions for definition)? Yes No
 Will this site discharge mine equipment wash water (see instructions for definition)? Yes No
 Will this site discharge suction dredge water (see instructions for definition)? Yes No
 H. Provide the latitude and longitude (to the nearest 15 seconds) of the site, and the name of the nearest receiving water body (ex: to unnamed tributary to Saluda River). If any answer in G. above is "yes", also list each outfall and the flow (in gallons per day).

Outfall Number or Storm Water	Flow (gallons per day)	Latitude			Longitude			Receiving Waters
		Deg	Min	Sec	Deg	Min	Sec	
N/A	max 200k/min 80K	32	96	35	79	66	49	unnamed tributary to Atlantic Intracoastal Waterway

- I. Describe the discharge flow path from the point it exits the system to the point it enters the receiving water (attach a separate sheet if more space is needed). Please note, if applicable, that easements have been obtained for any conveyances of the discharge not on property of the permittee, which are not waters of the State.

Discharge water from the mine pit will exit the retention pond via culvert beneath the mine access road and outfall to existing ditch system within parent parcel wholly owned by applicant. Discharge water will flow through existing silvicultural ditch system, beneath Seewee Road, and thence to an unnamed tributary that outfalls into the Atlantic Intracoastal Waterway northeast of the project site.

- J. Locate the site and any discharges on a U.S. Geological Survey 7½ minute quad sheet. An 8½ x 11 copy of the portion of the map with the site and the discharge identified should be submitted with this NOI.

USGS Map Quadrant Name: Seewee Bay, SC

- K. Provide a map of the site that shows the following:
- The property boundary and all areas that will be affected by mining activities (i.e. the pits or excavation areas, overburden areas, material stockpiles, etc.)
 - Location of planned access and haul roads on the area to be affected.
 - Location and name (if appropriate) of streams, lakes, wetlands and existing drainage ditches within the area to be permitted. Use arrows to indicate direction of water flow in such streams and drainage ditches.
 - A legend showing the name of applicant, name of the proposed mine, north arrow, county, scale, date of preparation and name and title of the person who prepared the site map.

- L. Describe all operations that contribute wastewater to the discharge and any treatment that is provided. Attach any existing data on the quality of the discharge.

The operation contributing wastewater to the discharge is limited to mine pit de-watering only. Measures described in the attached, approved C.A.P. associated with existing SCG731329 will be adhered to for meeting discharge pH requirements of the issued permit.

- M. Use the space below to bring to the Department's attention any additional information you feel should be considered in the permit decision. Attach an additional sheet if necessary.

The proposed discharge flow path is the same as existing SCG731329 and methodology of discharge water entering the existing silvicultural ditch system is consistent with the existing GP-1. The location of the new retention pond and pump are identified on the attached mine drawings.

IV. Certification

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

Print Name:

KING TRACT LLC

JASON A. SMITHGALL VICE PRESIDENT
OF MANAGER

Title:

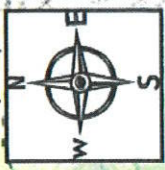
VP OF M

Signature:

Jason A. Smithgall VP OF M

Date:

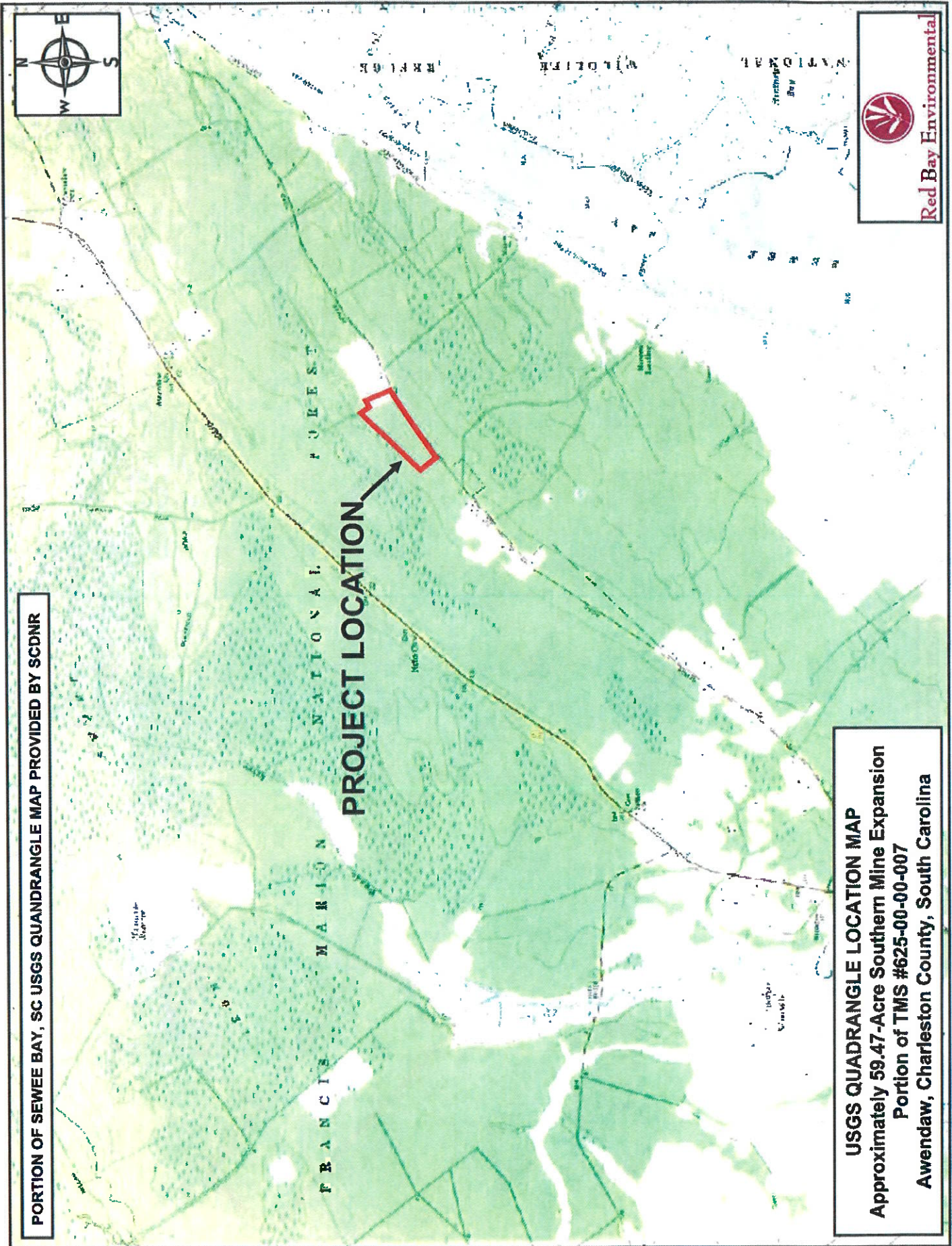
1/31/20

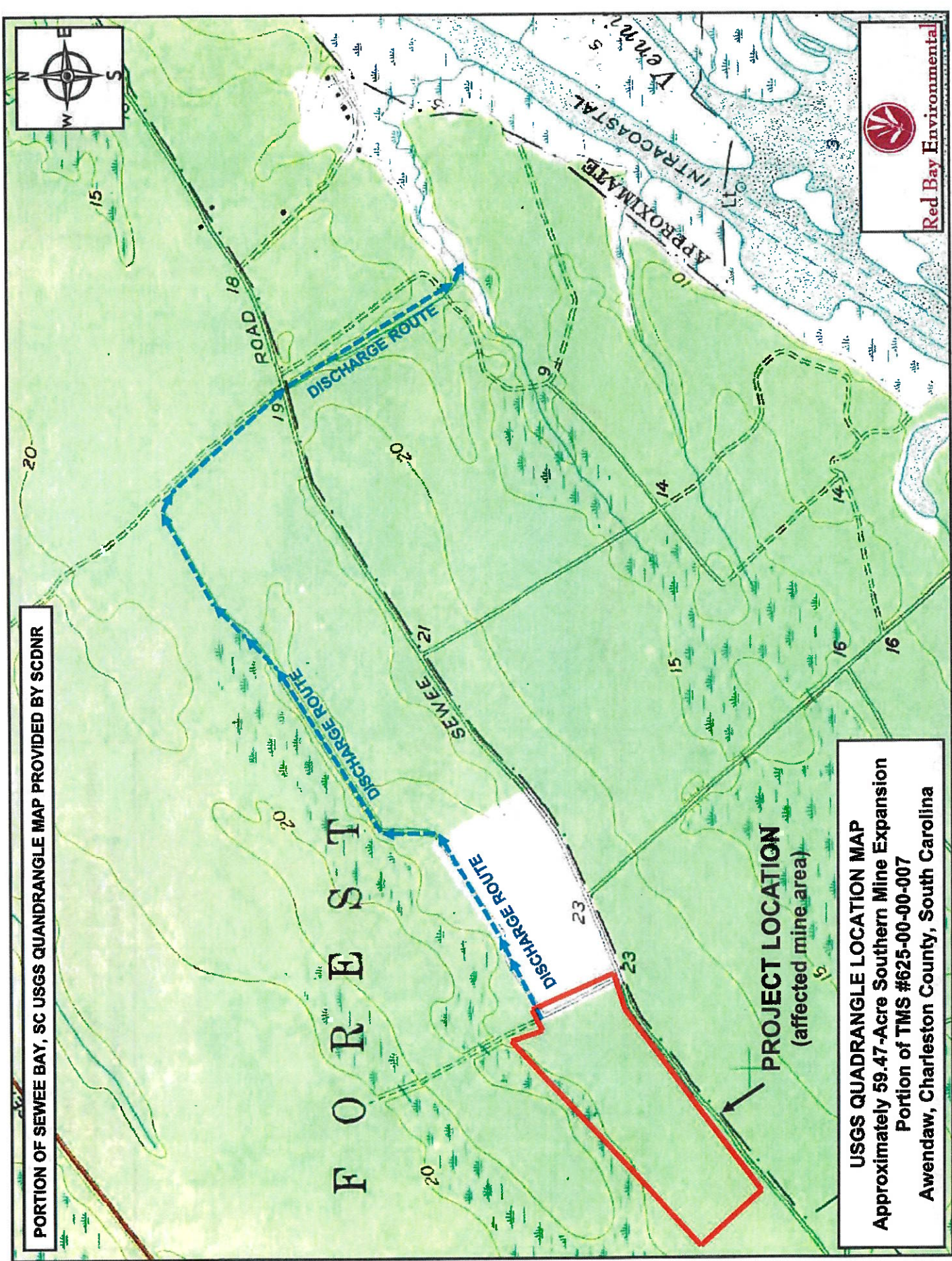


PORTION OF SEWEE BAY, SC USGS QUADRANGLE MAP PROVIDED BY SCDNR

PROJECT LOCATION

USGS QUADRANGLE LOCATION MAP
Approximately 59.47-Acre Southern Mine Expansion
Portion of TMS #625-00-00-007
Awendaw, Charleston County, South Carolina





PORTION OF SEWEE BAY, SC USGS QUADRANGLE MAP PROVIDED BY SCDNR

F O R E S T

ROAD

DISCHARGE ROUTE

DISCHARGE ROUTE

DISCHARGE ROUTE

SEWEE

APPROXIMATE
INTRACOASTAL

WATERWAY

PROJECT LOCATION
(affected mine area)

USGS QUADRANGLE LOCATION MAP
Approximately 59.47-Acre Southern Mine Expansion
Portion of TMS #625-00-00-007
Awendaw, Charleston County, South Carolina



Red Bay Environmental

FRANCIS MARION FOREST

PROJECT AREA
2,590,545.7 sq. ft.
59.47 acres

PHASE 1
5.0 acres

KING TRACT
TMS 625-00-00-007
(±1,329 acres)

SEEWEE ROAD

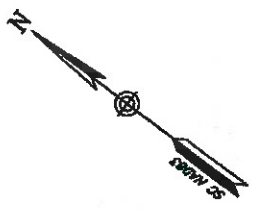
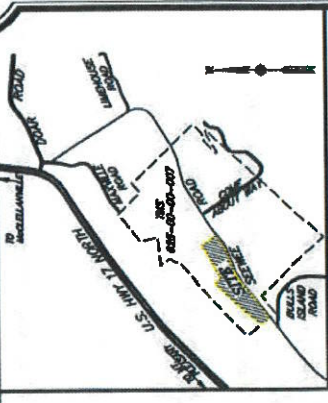
FUTURE MINE RESERVES AND SILVICULTURAL/AGRICULTURAL MANAGEMENT
(±1,090 acres)

COME ABOUT WAY

FUTURE RESERVE LINE
100' POWERLINE EASEMENT

RESIDUAL PORTION OF KING TRACT

RESIDUAL PORTION OF KING TRACT



OVERALL MINE MAP
SOUTHERN PIT EXPANSION
KING TRACT, LLC
A PORTION OF TMS 625-00-00-007

LOCATED IN THE TOWN OF AWENDAM,
CHARLESTON COUNTY, SOUTH CAROLINA

DATE: NOVEMBER 11, 2019

SCALE: 1" = 1,500'

SITE SUMMARY

- PHASE 1 (EX. MINE)** 5.0 acres
(GP1-002089)
- PERMITTED AREA** 59.47 acres
- PROPOSED MINE AREA** 50.41 acres
- BUFFER AREA/UND. WET WETLAND EXCAVATION** 9.36 acres
- FUTURE RESERVE AREA** 1,090 acres
(BUFFER AREA 114 acres)
- TOTAL TMS 625-00-00-007** 1,329 acres

TIM ELMER RLS, LLC

523 MAN O WAR LANE
MONCKS CORNER, SC 29461

Phone: (843) 482-0795
Text: (843) 693-0795

TDEtmr11@aol.com

NOTES:

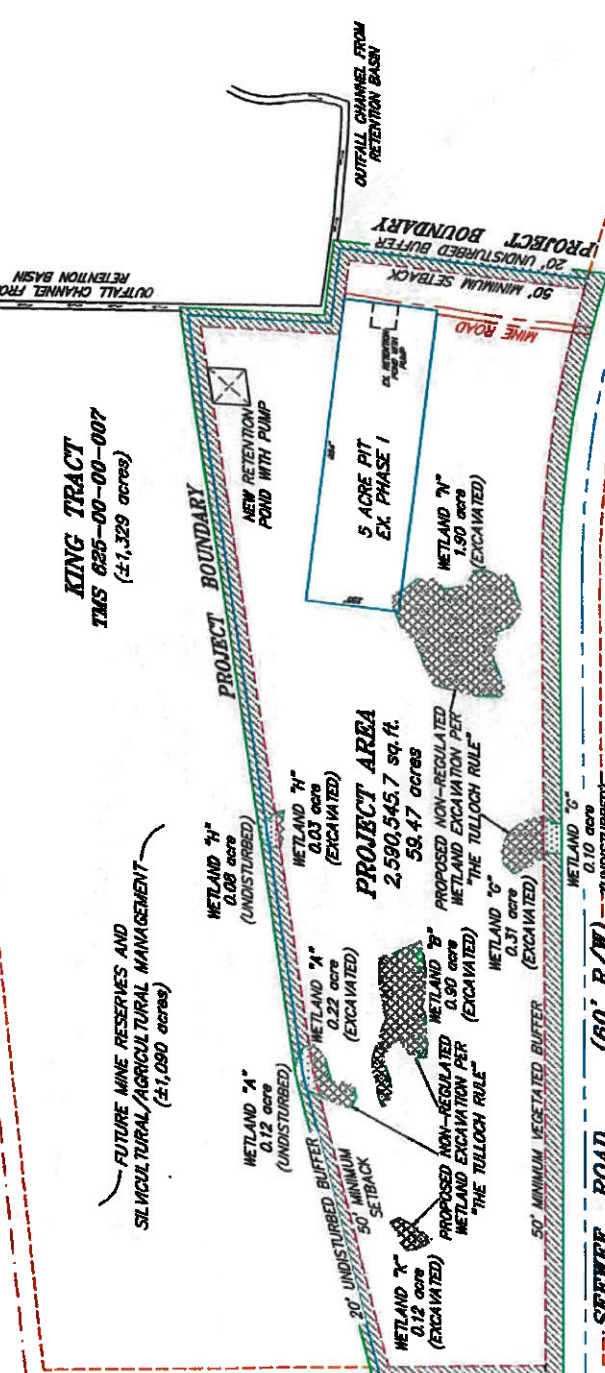
1. DISCHARGE WATERS WILL BE FILTERED THROUGH RETENTION BASIN PRIOR TO DISCHARGE THROUGH EXISTING OUTFALL DITCHES.
2. POND LIMITS INCLUDE STOCKPILE AREAS.
3. EXISTING SILVICULTURAL/MINE ACCESS ROAD AND OUTFALL DITCHES WILL BE USED FOR THE SITE.
4. PHASE I MINE AREA WILL BE INCORPORATED INTO PROJECT AREA FOR PHASE II.



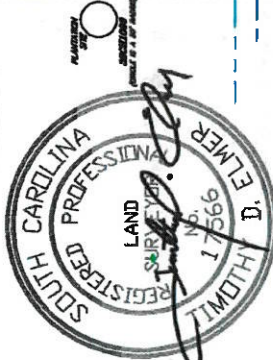
FRANCIS MARION FOREST

KING TRACT
TMS 625-00-00-007
(±1,329 acres)

FUTURE MINE RESERVES AND SILVICULTURAL/AGRICULTURAL MANAGEMENT
(±1,080 acres)



FRANCIS MARION FOREST



TIM ELMER RLS, LLC

523 MAN O WAR LANE
MONKES CORNER, SC 29461
Phone: (843) 482-0795
Text: (843) 693-0795
TDElmerT@aol.com

**PHASE II EXPANSION AREA MINE MAP
SOUTHERN PIT EXPANSION
KING TRACT, LLC
A PORTION OF TMS 625-00-00-007**

**LOCATED IN THE TOWN OF AWENDAW,
CHARLESTON COUNTY, SOUTH CAROLINA**

DATE: NOVEMBER 19, 2019

SCALE: 1" = 500'

SITE SUMMARY

PHASE I (EX. MINE) 5.0 acres
(GPI-002089)

PERMITTED MINE AREA 58.47 acres
PROPOSED MINE AREA 50.41 acres
BUFFER AREA/UND. WET 9.36 acres
WETLAND EXCAVATION 3.48 acres
FUTURE RESERVE AREA 1,080 acres
(BUFFER AREA 114 acres)

TOTAL TMS 625-00-00-007 1,329 acres



Red Bay Environmental

January 15, 2020

Mr. Brandon Kersbergen
SC Department of Health and Environmental Control
Bureau of Water
Water Pollution Compliance and Enforcement Division
2600 Bull Street
Columbia, South Carolina 29201-1708
via email: kersbebl@dhec.sc.gov

**RE: Corrective Action Plan for Notice of Violation
Marcinak Construction/Southern 1 Mine
NPDES Permit #SCG731329
Awendaw, Charleston County, South Carolina**

Dear Mr. Kersbergen:

The following information is being submitted on behalf of Marcinak Construction Company, Inc. (Marcinak) in response to the above referenced Notice of Violation dated December 17, 2019. The information below contains a Corrective Action Plan (CAP) that addresses the lack of monthly discharge monitoring reports (DMRs) for the July 2018 to August 2019 reporting periods and the violation of permit limits for pH for August through October 2017 and March through June 2018. The proposed corrective action measures discussed below have been prepared in consultation with Marcinak and the SCDHEC.

DMR Submittal Violation:

The submittal of monthly DMRs will continue for the duration of the effective period of validity for the current mining authorization and will continue on a monthly basis upon the issuance of the permit (I-002242) that is currently being processed by the SCDHEC. It is understood by Marcinak that the submittal of monthly DMRs must continue even in the event of the cessation of discharge for any particular monthly monitoring period and that the submitted DMRs should note that no discharging of wastewater has occurred during the specified monitoring period. Please note that there is no on-going discharging of wastewater from the general permit area (GP-002089) covered by the NPDES permit referenced above. Discharging will continue upon approval of I-002242. The permit application being processed for the expansion of the authorized general permit area will utilize the same discharge network that is currently in place.

Violation of Permit Limits for pH:

Marcinak will implement the following actions to address the potential source(s) contributing to the pH violations to meet the permit limits for pH. Marcinak will augment the site for pH sampling that will include, but not be limited to the following practices:

- lime treatment of the existing GP mine area (direct treatment to surface water)
- lime treatment of the existing sediment retention basin (direct treatment to surface water)
- broadcast lime treatment to the bank of existing GP mine area

In addition to the measures identified above, sampling will include both an up-gradient sample and down-gradient sample for pH. As noted, there is no current discharging from the GP mine area. Discharging will commence upon approval of I-002242 and the resulting expansion of the GP area. This sampling protocol and the augmentation practices described above will continue for the duration of the effective validity of the issued mine permit and/or the discharging from the mine area.

At your earliest convenience, please process this information and proceed with approval of the CAP. Please contact me at (843) 810-3311 or jagoff@redbayenvironmental.com with any questions regarding this material, or if you require any additional information for approval of the CAP. Thank you for your continued assistance with this project.

Sincerely,



Judson A. Goff

C: Mr. Chad Marcinak, Marcinak Construction Company



Red Bay Environmental

April 21, 2020

Mr. Brett Caswell
Industrial Wastewater Permitting
SC Department of Health and Environmental Control
2600 Bull Street
Columbia, South Carolina 29201-1708
via email: caswelbm@dhec.sc.gov

**RE: Corrective Action Plan Results
King Tract – Southern Mine GP1-002089
Portion of TMS #625-00-00-007
Awendaw, Charleston County, South Carolina**

Dear Mr. Caswell:

Pursuant to the prior submitted and approved Corrective Action Plan (CAP) for the existing general permit area of the King Tract-Southern Mine (GP1-002089), the following information is being transmitted regarding implementation of the plan. Per the CAP, the GP site was augmented on 04/20/20 for pH sampling per the following practices:

- lime treatment of the existing GP mine area (direct treatment to surface water)
- lime treatment of the existing sediment retention basin (direct treatment to surface water)
- broadcast lime treatment to the bank of existing GP mine area

Prior to the site augmentation, an initial pH sample was collected from the existing pit with a result of 4.69 pH. Site augmentation was then implemented by the application of the lime to the above referenced areas via a tractor with a PTO-driven broadcast spreader. Upon completion of the lime application and a period of settling another pH sample was collected from the existing pit with a result of 7.46 pH which is within the acceptable range specified in the prior issued pH violation(s). Attached is photograph documentation of the application implementation as well as the sampling results.

At your earliest convenience, please process the information and update the existing project file. Please contact me at (843) 810-3311 with any questions regarding this material, or if you require any additional information. Thank you for your continued assistance with this project.

Sincerely,

Judson A. Goff

Attachments: Photo documentation of Implementation of Corrective Action Plan

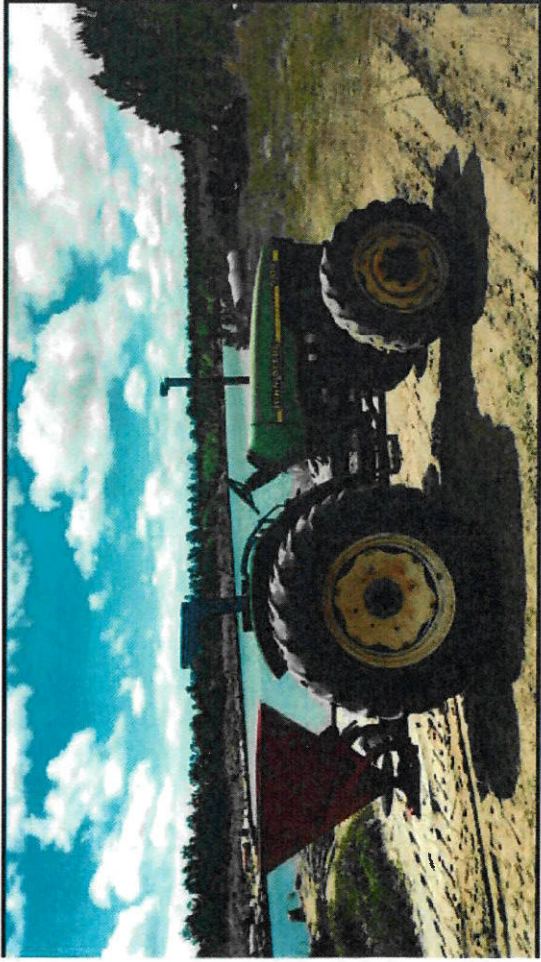


Photo 1: Tractor and Spreader utilized for application of Lime (04/20/20).



Photo 2: View of packaged Lime that was applied to GP Mine area side slopes and surface water perimeter (04/20/20).

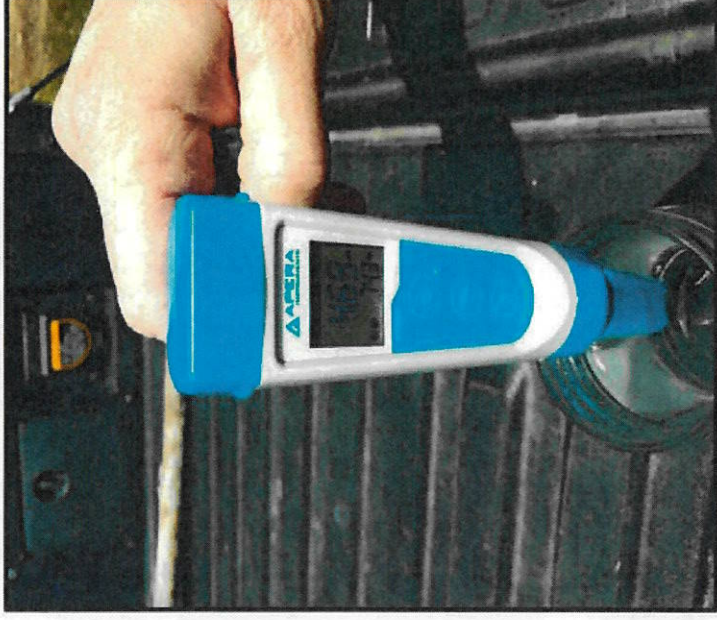


Photo 3: Pre-application of Lin pH Sample results from pit (04/20/20).



Photo 4: Post-application of Lime pH Sample results from pit (04/20/20).

Corrective Action Plan Photos
King Tract – Southern Mine General Permit Area
Portion of TMS #625-00-00-007
Awendaw, Charleston County, South Carolina



Red Bay Environmental

South Carolina Board of Health and Environmental Control

Guide to Board Review

Pursuant to S.C. Code Ann. § 44-1-60

The decision of the South Carolina Department of Health and Environmental Control (Department) becomes the final agency decision fifteen (15) calendar days after notice of the decision has been mailed to the applicant, permittee, licensee and affected persons who have requested in writing to be notified, unless a written request for final review accompanied by a filing fee in the amount of \$100 is filed with Department by the applicant, permittee, licensee or affected person.

Applicants, permittees, licensees, and affected parties are encouraged to engage in mediation or settlement discussions during the final review process.

If the Board declines in writing to schedule a final review conference, the Department's decision becomes the final agency decision and an applicant, permittee, licensee, or affected person may request a contested case hearing before the Administrative Law Court within thirty (30) calendar days after notice is mailed that the Board declined to hold a final review conference. In matters pertaining to decisions under the South Carolina Mining Act, appeals should be made to the South Carolina Mining Council.

I. Filing of Request for Final Review

1. A written Request for Final Review (RFR) and the required filing fee of one hundred dollars (\$100) must be received by Clerk of the Board within fifteen (15) calendar days after notice of the staff decision has been mailed to the applicant, permittee, licensee, or affected persons. If the 15th day occurs on a weekend or State holiday, the RFR must be received by the Clerk on the next working day. RFRs will not be accepted after 5:00 p.m.
2. RFRs shall be in writing and should include, at a minimum, the following information:
 - The grounds for amending, modifying, or rescinding the staff decision;
 - a statement of any significant issues or factors the Board should consider in deciding how to handle the matter;
 - the relief requested;
 - a copy of the decision for which review is requested; and
 - mailing address, email address, if applicable, and phone number(s) at which the requestor can be contacted.
3. RFRs should be filed in person or by mail at the following address:

South Carolina Board of Health and Environmental Control
Attention: Clerk of the Board
2600 Bull Street
Columbia, South Carolina 29201

Alternatively, RFR's may be filed with the Clerk by facsimile (803-898-3393) or by electronic mail (boardclerk@dhec.sc.gov).
4. The filing fee may be paid by cash, check or credit card and must be received by the 15th day.
5. If there is any perceived discrepancy in compliance with this RFR filing procedure, the Clerk should consult with the Chairman or, if the Chairman is unavailable, the Vice-Chairman. The Chairman or the Vice-Chairman will determine whether the RFR is timely and properly filed and direct the Clerk to (1) process the RFR for consideration by the Board or (2) return the RFR and filing fee to the requestor with a cover letter explaining why the RFR was not timely or properly filed. Processing an RFR for consideration by the Board shall not be interpreted as a waiver of any claim or defense by the agency in subsequent proceedings concerning the RFR.
6. If the RFR will be processed for Board consideration, the Clerk will send an Acknowledgement of RFR to the Requestor and the applicant, permittee, or licensee, if other than the Requestor. All personal and financial identifying information will be redacted from the RFR and accompanying documentation before the RFR is released to the Board, Department staff or the public.
7. If an RFR pertains to an emergency order, the Clerk will, upon receipt, immediately provide a copy of the RFR to all Board members. The Chairman, or in his or her absence, the Vice-Chairman shall based on the circumstances, decide whether to refer the RFR to the RFR Committee for expedited review or to decline in writing to schedule a Final Review Conference. If the Chairman or Vice-Chairman determines review by the RFR Committee is appropriate, the Clerk will forward a copy of the RFR to Department staff and Office of General Counsel. A Department response and RFR Committee review will be provided on an expedited schedule defined by the Chairman or Vice-Chairman.
8. The Clerk will email the RFR to staff and Office of General Counsel and request a Department Response within eight (8) working days. Upon receipt of the Department Response, the Clerk will forward the RFR and Department Response to all Board members for review, and all Board members will confirm receipt of the RFR to the Clerk by email. If a Board member does not confirm receipt of the RFR within a twenty-four (24) hour period, the Clerk will contact the Board member and confirm receipt. If a Board member believes the RFR should be considered by the RFR Committee, he or she will

respond to the Clerk's email within forty-eight (48) hours and will request further review. If no Board member requests further review of the RFR within the forty-eight (48) hour period, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Final Review Conference. Contested case guidance will be included within the letter.

NOTE: If the time periods described above end on a weekend or State holiday, the time is automatically extended to 5:00 p.m. on the next business day.

9. If the RFR is to be considered by the RFR Committee, the Clerk will notify the Presiding Member of the RFR Committee and the Chairman that further review is requested by the Board. RFR Committee meetings are open to the public and will be public noticed at least 24 hours in advance.
10. Following RFR Committee or Board consideration of the RFR, if it is determined no Conference will be held, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Conference. Contested case guidance will be included within the letter.

II. Final Review Conference Scheduling

1. If a Conference will be held, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, informing the Requestor of the determination.
2. The Clerk will request Department staff provide the Administrative Record.
3. The Clerk will send Notice of Final Review Conference to the parties at least ten (10) days before the Conference. The Conference will be publically noticed and should:
 - include the place, date and time of the Conference;
 - state the presentation times allowed in the Conference;
 - state evidence may be presented at the Conference;
 - if the conference will be held by committee, include a copy of the Chairman's order appointing the committee; and
 - inform the Requestor of his or her right to request a transcript of the proceedings of the Conference prepared at Requestor's expense.
4. If a party requests a transcript of the proceedings of the Conference and agrees to pay all related costs in writing, including costs for the transcript, the Clerk will schedule a court reporter for the Conference.

III. Final Review Conference and Decision

1. The order of presentation in the Conference will, subject to the presiding officer's discretion, be as follows:
 - Department staff will provide an overview of the staff decision and the applicable law to include [10 minutes]:
 - Type of decision (permit, enforcement, etc.) and description of the program.
 - Parties
 - Description of facility/site
 - Applicable statutes and regulations
 - Decision and materials relied upon in the administrative record to support the staff decision.
 - Requestor(s) will state the reasons for protesting the staff decision and may provide evidence to support amending, modifying, or rescinding the staff decision. [15 minutes] *NOTE: The burden of proof is on the Requestor(s)*
 - Rebuttal by Department staff [15 minutes]
 - Rebuttal by Requestor(s) [10 minutes]

Note: Times noted in brackets are for information only and are superseded by times stated in the Notice of Final Review Conference or by the presiding officer.
2. Parties may present evidence during the conference; however, the rules of evidence do not apply.
3. At any time during the conference, the officers conducting the Conference may request additional information and may question the Requestor, the staff, and anyone else providing information at the Conference.
4. The presiding officer, in his or her sole discretion, may allow additional time for presentations and may impose time limits on the Conference.
5. All Conferences are open to the public.
6. The officers may deliberate in closed session.
7. The officers may announce the decision at the conclusion of the Conference or it may be reserved for consideration.
8. The Clerk will mail the written final agency decision (FAD) to parties within 30 days after the Conference. The written decision must explain the basis for the decision and inform the parties of their right to request a contested case hearing before the Administrative Law Court or in matters pertaining to decisions under the South Carolina Mining Act, to request a hearing before the South Carolina Mining Council. The FAD will be sent by certified mail, return receipt requested.
9. Communications may also be sent by electronic mail, in addition to the forms stated herein, when electronic mail addresses are provided to the Clerk.

The above information is provided as a courtesy; parties are responsible for complying with all applicable legal requirements.