

Water inspections drain DHEC budget

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BY CHARLES SOWELL | STAFF

AN ADMINISTRATIVE LAW court judge is considering a motion by the State Department of Health and Environmental Control to dismiss an appeal of the agency's decision to stop doing most 401 Water Quality Certifications.

DHEC runs the water quality certification program under section 401 of the Federal Clean Water Act. Section 401 requires state certification for any activity that requires a Corps of Engineers permit and may result in a discharge to state waters.

Last fall the agency filed notice that it would stop 401 inspections due to budget cutbacks. In December the South Carolina Environmental Law Project in Charleston filed an appeal to the DHEC board on behalf of Upstate Forever and the Sierra Club.

The DHEC board refused to hear the appeal and the matter went on to Judge Ralph King Anderson.

DHEC spokesman Jim Beasley said the agency could not comment on a case before

the court.

Amy E. Armstrong, the attorney representing Upstate Forever and Sierra, said the DHEC decision has potential adverse impacts especially for outstanding resource water (trout streams) and along the coast on beach projects, in particular.

As the rule was administered prior to the budget crunch, all activities requiring a Corps permit for discharge of dredged or fill material also required a state 401 certification, according to agency policy statements available online.

"This went a long way toward ensuring water quality because the state regulations are stronger than the ones used by the Corps," Armstrong said.

Under the old standards a 401 certification was denied if the activity adversely affects existing or designated uses. The Federal permit could not be issued if certification is denied, Armstrong said.

Under the new procedure, DHEC will depend on assessments by the Corps issued as part of the nationwide permits they do every five years.

The greatest impacts, Armstrong said, deal with groins (walls set in the sea to capture sand) and beach restoration projects.

Those activities have very few water quality impacts, DHEC has said.

Armstrong said the environmental side strongly disagrees with that and fears the long-term impacts of essentially doing away with 401 certifications.

Other than a threat to overall water quality shared by all state residents, Armstrong said it is hard to determine if there are any winners in DHEC's decision.

However, a decision by DHEC's board last week may indicate the agency's direction in the future.

The DHEC board sided with affluent seaside landowners in the exclusive Debordieu community, approving a beach restoration plan that critics say could hurt research at an acclaimed science laboratory near Georgetown.

The ruling would let property owners build metal walls (groins) in the ocean to trap sand.

The Groins would protect about \$20

million in oceanfront property by slowing beach erosion at Debordieu.

The plan has drawn fire from scientists, who say the groins could damage the nationally known Baruch research area just down the coast.

The Baruch Foundation said the plan might slow erosion at Debordieu, but would undoubtedly increase erosion just downstream at North Inlet's two-mile long beach.

The Baruch Foundation owns and protects the North Inlet area for research by the University of South Carolina and other colleges.

"What this case involves is competing property rights," Armstrong told the DHEC board. "It boils down to the transfer of the risk from Debordieu onto the Baruch Foundation property."

The North Inlet research area, between Georgetown and Debordieu, is considered virtually pollution free. Debordieu is a gated seaside community of more than 1,000 homes and lots between Georgetown and Pawleys Island. Many homes are valued at more than \$1 million.

Contact Charles Sowell at 679-1208
or csowell@greenvillejournal.com.