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REPLY TO GOOSE CREEK OFFICE

April 12, 2016

Nikki R. Haley, Governor
1100 Gervais Street
Columbia, South Carolina 20201

RE: Joint Use Dock – Peter J. Kuhns
Permit No.: OCRM-15-211-B
Property Addresses: 1909, 1913, and 1917 Lone Oak Pointe
Mt. Pleasant, South Carolina 29464
TMS Nos.: 583-13-00-029
583-13-00-030
583-13-00-031

Dear Governor Haley:

Please accept this correspondence as an official Complaint against the Office of Ocean and Coastal Resource Management (OCRM) for the actions/inactions of that office and its administrative personnel in the handling of the above-referenced Application and Permit. I believe that DHEC-OCRM has mishandled the above-referenced matter to the detriment of myself and many others who are “interested parties” in opposition to a deep water dock from the requested properties. I would ask that your office investigate and take appropriate action.

By copy of this correspondence (w/enclosures) to Dana Beach at The Coastal Conservation League, and also to The Sierra Club, I am alerting both organizations that OCRM has apparently now decided to not enforce Dock Master Plans negotiated between OCRM and developers. What is especially odd here is that the Applicant previously was denied a Dock Permit from the same properties based upon the DMP that existed at the time of his purchase not allowing a dock from his Lots. Because Mr. Beach’s organization is concerned with the ongoing development of 9,000 acres in Cainhoy Plantation (3,200 acres of marshes and salt water wetlands), he should be concerned that

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GOOSE CREEK OFFICE:
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GOOSE CREEK, SC 29445

MONCKS CORNER OFFICE:
113 BROUGHTON ROAD
MONCKS CORNER, SC 29461

HILTON HEAD OFFICE:
18 POPE AVENUE
HILTON HEAD ISLAND, SC 29928

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OCRM does not uphold its DMP agreements. The subject Dock Permit is across the Wando River from Cainhoy Plantation, and OCRM's current actions may serve as an unfortunate precedent should some homeowner who purchases a non-dockable Lot want to modify the DMP for his own benefit, and probably to the detriment of his neighbors, and certainly to the detriment of our fragile marsh environment.

By way of short history, back in 2003, DHEC-OCRM previously denied a deep water dock Permit request from the same properties (though the prior Permit was for a four Lot deep water joint use dock while this Application is for a three Lot dock). Of interest, and enclosed as **Exhibit One**, please find a copy of correspondence dated October 23, 2003 from DHEC-OCRM representative Curtis Joyner (then Manager, Critical Area Permitting) to the Applicant's representative (John Wade), in which Mr. Joyner pointed out to the Applicant that his Lots were not included on the Dock Master Plan negotiated between the developer and OCRM. Further, Mr. Joyner stated "OCRM staff must consider the value and enjoyment of adjoining property owners who relied on the approved Dock Master Plan when purchasing Lots knowing other Lots would never possess a dock".

On June 12, 2003 (**Enclosure Two**), Fritz Aichele, the Dock Master Plan Coordinator for OCRM, wrote Mr. Wade again reiterating the importance of the Dock Master Plan. The failed Applicant in 2003 (Pete Kuhns) is the Applicant for the current Application/Permit, so he was obviously aware of the reliance previously placed by OCRM in upholding the Community Dock Master Plan, and he is obviously aware as the initial purchaser from the Developer that his three Lots did not come with Dock Permits. Of note, the community (The Pointe/Northcreek) was specifically marketed by the developers as providing purchasers (myself and my family and others who now object) unobstructed marsh views of the marsh and Wando River. We relied upon those representations in our purchase decisions (see **Enclosure Three**).

After OCRM denied the 2003 Application for a deep water dock from the above-referenced Lots, I wrote the Permit Administrator, Curtis Joyner, at SCHDEC-OCRM on February 11, 2004, a copy of which I enclose as **Enclosure Four**. As you can see from the letter, I advised OCRM that I was concerned that there might be some future Application for a dock from those same properties. I very strongly advised OCRM that

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myself and others who opposed the denied Application would never support any alteration of the Dock Master Plan which allows a dock from the subject properties. At that time, I requested that a copy of my correspondence of that date be placed in the Dock Master Plan file, and that myself and other homeowners who received copies of my correspondence be notified of any future request(s) to alter the Dock Master Plan with respect to these properties. I would note that my correspondence was sent to Mr. and Mrs. Dwight Stone, Mr. Jeffrey Johnston, Mr. and Mrs. Jeff Hauser, and not one of us were notified of the current Application, which would allow us to object as "interested parties". As such, our due process rights were violated by both the Applicant Kuhns and OCRM.

As **Enclosure Five**, please find my correspondence dated January 3, 2006 to Curtis Joyner, Manager, Critical Area Permitting, discussing that I had been approached by an attorney for a developer who wanted to know if my prior objection to docks from Lone Oak Pointe persisted. As I advised the attorney at that time, and as I advised Mr. Joyner in January 3, 2006, both myself and others who have opposed docks from those Lots enjoy our beautiful marsh and Wando River views just fine without docks affecting our view. Also at that time, I again requested of Mr. Joyner that a copy of my correspondence be placed in the Dock Master Plan file, and that myself, Mr. and Mrs. Stone, and Mr. and Mrs. Johnston all be notified of any future requests for Dock Permits with respect to those properties.

On March 4, 2008, I again wrote Curtis Joyner, Manager, Critical Area Permitting (see Enclosure Six), Tess Rogers, Regulatory Coordinator, and Elizabeth Dieck, Chief Counsel, with reference to Mr. Kuhns' Lots on Lone Oak Pointe. I again highlighted that granting docks from the properties in question would detract from the beautiful, unobstructed marsh view from my property, and I persisted in documenting my continued strong opposition to any docks from Lone Oak Pointe. In that correspondence, I also reiterated the history of attempted docks from those properties, and I again provided copies of sales brochures from the Developer guaranteeing that the development was engineered to "maximize the incredible views of the Wando River, Creek, and a vast Savannah of Marsh". I also pointed out that the Covenants and Restrictions that applied to our part of Rivertowne (The Pointe/Northcreek at Rivertowne HOA) promised to every

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member of our community the use and enjoyment of the common areas, and that we had a community dock that would also be adversely affected by allowing any additional docks in close proximity to the community dock on the Wando River.

On March 4, 2008, I again requested that my strong opposition, along with a copy of my correspondence and enclosures, be placed in the Dock Master Plan file for our community, and that myself and everyone that received the correspondence be notified in the event of any future requests for a Dock Permit to any property in "The Pointe at Rivertowne" that is contrary to the Dock Master Plan.

In January, 2016 I noticed that Carolina One Real Estate Agent, Jeffrey Popper, who is also the President of our Community Homeowner Association, listed for sale one of the Kuhns' properties on Lone Oak Pointe. At the time that Mr. Popper's sign went up, the property was not advertised as coming with a deep water dock. Since I did not know whether Mr. Kuhns still owned the properties, I wrote Mr. Popper on January 7, 2016 (**Enclosure Seven**) and advised him that myself and others in our community had previously opposed voiding our Dock Master Plan to provide docks from those Lots, because we had all relied upon the Dock Master Plan in making our purchase decisions, and we would all continue to oppose docks from those Lots. Little did I know, but Carolina One and Mr. Popper's co-listing agent (Bob Crawford at Carolina One) had been working for many months to steer a Dock Permit through the Application and Permitting process, and by the time of my letter, the Permit had already been issued (**Exhibit Eight**).

Governor Haley, you might think (and I thought all along) that OCRM's decision with respect to docks from Lone Oak Pointe, should be consistent. My opposition to Docks from Lone Oak Pointe has never changed. I would have thought that my many letters to OCRM over the years requesting to be notified as an "interested party" of any future Dock Application would have placed OCRM on notice to require any Applicant to notify all interested parties, which would include myself and others, all adjoining neighbors, and everyone in our community who has a shared interest in the community dock on the Wando River. None of that happened, which causes me to file this complaint against OCRM because all of the above has been made known to them over the past several months without any response.

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In February, 2016 the listing agent for the properties (who also happens to be the President of our HOA), sent out a mass mailing advertising the Lots for sale with a deep water dock. I immediately wrote the Manager, Clinical Area Permitting, on February 4, 2016, a copy of which correspondence is attached as **Exhibit Nine**. As of this date, my letters and telephone calls have gone unanswered. I suspect that OCRM understands that the Application was flawed, and did not inform interested/necessary parties, and that OCRM failed to follow its own prior decision with respect to a deep water dock contrary to the DMP.

I filed a Freedom of Information Act Request for the entire OCRM file. The documents I received are quite surprising. I learned that Mr. Kuhns and his representative, Bob Crawford of Carolina One Real Estate, were in close contact for a long time with Steven Brooks, Senior Regulatory Project Manager at SCHDEC-OCRM. I enclose a copy of an email dated May 5, 2015 from Mr. Crawford to Mr. Brooks (**Enclosure Ten**) assuring him that "this new Application is very different from the one that was denied". I was concerned to see our public servants working so closely with this Realtor on an Application for a deep water dock from Lots previously denied for the reasons stated above. I wish the staff at OCRM had notified myself and other interested parties of this Application. I would have thought that my strong objection and letters over the years would have been sufficient to warrant notification. I was further surprised that Realtor Crawford was giving OCRM staff legal advice that they followed.

The nature of my complaint is that the SCHDEC-OCRM is not treating myself and others who have objected to docks from these Lots fairly, but has shown preferential treatment to Applicant, Peter J. Kuhns and his real estate representatives at Carolina One.

Enclosed as **Exhibit Eleven**, is correspondence dated June 10, 2015 from Tess Trumball, Wetlands Section Coordinator, to Peter J. Kuhns. That correspondence very clearly requires Mr. Kuhns to provide complete adjoining property owner names and full addresses. Mr. Kuhns then provided the name of Mr. and Mrs. Pizarski of 1921 Lone Oak Pointe. To my understanding, the Pizarski's had already sold their property, and when OCRM's notice to Paul and Nancy Pizarski at 1921 Lone Oak Pointe was returned to OCRM, OCRM then sent notice to the Pizarski's on July 24, 2015 at their new address in Orlando, Florida. Thus, OCRM was on notice that the Pizarski's had moved. To my

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knowledge, the new owners (Laplante's) who now reside at 1921 Lone Oak Pointe, were never notified of the Application by OCRM, and they were never informed that they could object as an interested party because docks from Lots on Lone Oak Pointe had previously been rejected by OCRM for the reasons stated above, and they were never notified that their beautiful unobstructed marsh view would now be forever changed by the Kuhns' dock walkway and pier head (the Pisarski notice from the OCRM file is **Enclosure Twelve**). Kuhns was aware that the Laplante's were the new owners at 1921 Lone Oak Pointe; however, there is no indication in the OCRM file that they were notified.

I note from the FOIA documents received that OCRM advised Bob Crawford (Carolina One Real Estate) to send a copy of the Application to the HOA. I would point out that Mr. Kuhns and Mr. Crawford provided OCRM with the name of the wrong HOA. Lone Oak Pointe is located in the part of the community known as "The Pointe/Northcreek Homeowner's Association," which is separate from the Parker Island HOA that Kuhns and Crawford provided. I do note that I believe that the Pointe/Northcreek HOA President (listing agent, Jeffrey Popper of Carolina One) is also a member of the Parker Island HOA, though I believe Mr. Popper never advised The Pointe/Northcreek HOA of the Application or of our Board's right to object based upon upholding our DMP, or object because the proposed dock negatively affected marsh views of residents, or object because the proposed dock would be an eyesore from our community dock. I do know that our HOA never notified myself or other homeowners of the Application.

After I learned of the Permit, I had a chance to appear before The Pointe – Northcreek HOA. At that time, not one member of the Board had seen the Application for the Kuhns' dock, and not one member of the Board was aware of how close it was to the community dock. Both Mr. Kuhns and his representative at Carolina One knew that the Parker Island HOA is separate from The Pointe – Northcreek HOA. This additional failure to notify an interested party should also be sufficient to suspend the Permit until after your office has an opportunity to investigate exactly what is going on at the Charleston Office of OCRM (**Enclosure Thirteen** is a document from the file of OCRM provided by Kuhns' real estate agent giving the incorrect HOA for our community).

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Also in the FOIA documents, I see the Kuhns' Dock Permit, similar to all Dock Permits in the State of South Carolina, was issued with a general condition which states "the OCRM shall have the right to revoke, suspend, or modify this Permit in the event that it is determined . . . that the information and data which a Permittee or any other agencies have provided in connection with the Permit Application is either false, incomplete, or inaccurate" (see Enclosure Fourteen OCRM General Conditions, Paragraph #13).

I enclose an overlay which shows the close proximity of the Laplante's, the Perdue's, the Medland's, and Mr. Clark's properties are to Mr. Kuhns' newly permitted dock walkway (**Enclosure 15**). Since Mr. Kuhns purchased the marsh behind these homes from the developer for \$10,000.00 in June, 2015 (see Enclosure 16 from OCRM file), these homeowners would be "adjoining property owners," and not one of them was notified of the Permit Application as required by OCRM in its correspondence to Mr. Kuhns. Considering that these homeowners will now look at Kuhns' dock walkway and pier head instead of their previous unobstructed views of the marsh and Wando River, OCRM should have exercised some common sense and notified them. Their properties are easily seen on the map that OCRM had in its file. Instead, OCRM relied on Kuhns to provide the names of all neighbors, and Kuhns' supplied the name of a neighbor who moved, as opposed to those he knew would be adversely impacted.

It is easy to see that Kuhns was obtaining something now very valuable (one of his Lots is now for sale as a Lot with deep water Lot for \$800,000.00) while other homeowners who relied on the DMP for their purchase are losing something very valuable to them. You may ask why OCRM is playing favorites. There exists no other explanation for such an abuse of process.

It has been several months since I have learned of the Permit and voiced my strong opposition to the Charleston office of OCRM. My letters and concerns have gone unanswered and unaddressed. Other homeowners/interested parties who were not notified in accordance with OCRM's rules and directives, have also complained to the Charleston office about the lack of due process that occurred with this Application/Permit (my last letter is attached as **Exhibit 17**).

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Nothing has changed from 2003 with respect to Mr. Kuhns' three Lots on Lone Oak Pointe and my unobstructed marsh view from 1900 Northcreek Drive (and the unobstructed views of Mr. Clark, the Medlin's, the Perdue's and the Laplante's). Community Dock Master Plans are important. I enclose a document authored by Richard Chinnis of OCRM back in July, 2001 titled "Dock and Pier Management, the South Carolina Experience". I would direct your attention to page 3 of that document which discusses the importance of Dock Master Plans (**Enclosure Eighteen**).

In the SCHDEC publication titled "Building A Dock in the South Carolina Lowcountry," I would direct your attention to page 4, which discusses the importance of Dock Master Plans, as well as page 6, titled "Should I Tell My Neighbor That I Am Applying For A Dock Permit?" That document very clearly states "OCRM encourages open communication between the Applicant and his/her neighbors at all stages of the permitting process to address any potential concerns". That certainly was not here (see Enclosure Nineteen), and the failure to do so warrants revocation of the Permit, with the Applicant being given the opportunity to properly apply and allow all interested parties to participate.

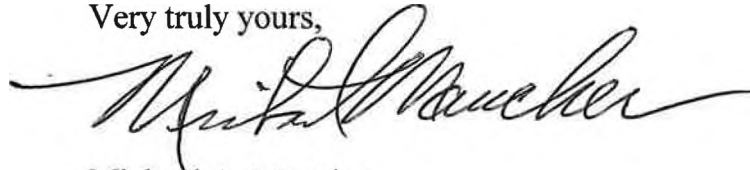
OCRM is broken in Charleston, South Carolina. I would ask that your office please investigate and take appropriate action so that the office follows its own rules and regulations. I would also suggest that upholding the Community Dock Master Plan is important, and that OCRM's handling of the current Dock Application/Permit for Lots from Lone Oak Pointe sets a disturbing precedent. If ever there existed a reason to suspend or revoke a Permit based upon misleading, inaccurate, or fraudulent information, then this is it!

I appreciate your kind consideration of this request. I know that you and your staff are busy running this fine State; however, the beautiful marsh outside my home is something worth fighting for, as is my property right in relying upon the Dock Master Plan. Unfortunately, my attempts to correct this sad state of affairs have been unsuccessful, and thus I petition your office to investigate the Charleston office of OCRM, and take appropriate action as you see fit. I expect that you and your staff will find that the Charleston office of OCRM has failed in its duties to the citizens of our State with respect to this Application/Permit.

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With kindest regards, I am,

Very truly yours,



Michael A. Maucher

MAM/tgb

Enclosures

cc: Mr. Dana Beach
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Charleston, South Carolina 29401

Sierra Club
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Charleston, South Carolina 29417

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Mrs. Bobbi Stone
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Mr. and Mrs. Jeffrey Johnston
2529 Ballast Pointe
Mt. Pleasant, South Carolina 29464

Mr. and Mrs. Jeff Houser
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Mt. Pleasant, South Carolina

The Pointe/Northcreek at Rivertowne HOA
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Mt. Pleasant, South Carolina 29466

Mr. Paul Clark
2309 Brick Kiln Point
Mt. Pleasant, South Carolina 29466

Mr. Richard and Janie Medlin
2305 Kiln Pointe Drive
Mt. Pleasant, South Carolina 29466

Mr. and Mrs. Laplante
1921 Lone Oak Pointe
Mt. Pleasant, South Carolina 29466

Mr. and Mrs. Gary Perdue
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Mt. Pleasant, South Carolina 29466