



W. Marshall Taylor Jr., Acting Director

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

March 10, 2015

Office of the Governor  
Attn: Mr. Austin Smith, Deputy Chief of Staff  
1205 Pendleton Street  
Columbia, SC 29201

Dear Mr. Smith,

5049905 The South Carolina Department of Health and Environmental Control – Office of Ocean and Coastal Resource Management (SCDHEC-OCRM or Department) is providing this letter in response to Mr. Lew and Mrs. Patricia Gardner's request to the Governor. Specifically, the Gardner's requested the Governor's assistance in changing the law or an exemption to the law which prohibits the use of shore parallel erosion control structures within SCDHEC-OCRM's beachfront critical area jurisdiction. The Department offers the following information.

As background, SCDHEC-OCRM staff have been assisting Mr. and Mrs. Gardner since early April of 2014. The Gardner's own a house and associated lot at 122 Harbor Drive North, Harbor Island, SC 29920. The lot is recently experiencing a high rate of erosion due to storms and associated conditions such as tide surges, long shore/rip currents and strong North/ North East winds. The Department determined the Gardner's house and lot to be in an emergency situation as defined by §48-39-10(U). The Department has assisted the Gardners by issuing two emergency orders and allowing emergency repair work to the house structure. Please see the timeline below.

- April 4, 2014 – the Department issued an Emergency Order (EO) to the Gardners to allow sand scraping to protect their property from erosion. Expiration date of April 30, 2014.
- April 28, 2014 – The Department issued a second EO, at the Gardner's request, to allow for minor renourishment and use of one ton sandbags. Expiration date of August 31, 2014.
- April 30, 2014 – The Department issued a letter to the Gardners acknowledging emergency repairs to the house structure under the Exceptions to a permit, R.30-5.A(6).
- August 29, 2014 – The Department extended the life of the EO to allow continued protection to the Gardner's property. Expiration date of November 3, 2014.
- November 25, 2014 – The Department extended the life of the EO to allow continued protection to the Gardner's property. Expiration date of March 31, 2015.

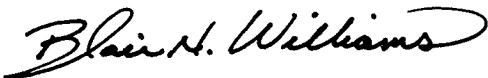
In the letter to your office, the Gardners request the use of a rip rap wall to protect their property. As acknowledged by the Gardners, shore-parallel hardened erosion control structures within the State's beachfront jurisdiction are prohibited by state law. Specifically, state law found in § 48-39-290(B)(2)(a) states "No new erosion control structures or devices are allowed seaward of the setback line except to protect a public highway which existed on the effective date of this act." This law applies to all communities in SCDHEC-OCRM's beachfront jurisdiction within the eight coastal counties and has been in place since the early 90's. However, as the Gardners point out there are some areas along South Carolina's coastline that have these erosion control devices. These structures were either in place prior to the act or, with regards to Fripp Island, state law found in § 49-39-290(B)(2)(e) allowed for the remaining 10 properties on Fripp Island to build erosion control devices.

Other areas mentioned such as Distant Island are not located on the beachfront but are located along coastal tidelands and coastal waters where erosion control structures such as bulkheads and revetments are permissible under state law. For your information, there are four types of critical areas regulated by the State. The four types of critical areas are coastal tidelands, coastal waters, beaches and beach/dune system. The Gardner's property is located within the critical areas classified as beaches and beach dune system and is therefore subject to the aforementioned law which prohibits new erosion control devices.

Hardened erosion control devices along the beachfront are known to cause increased erosion, lower the beach profile and decrease the dry sand beaches which protect upland property from storms and high tides. These devices can ultimately lead to the disappearance of the dry sand beach. SCDHEC-OCRM has encouraged the Gardners to find other viable and permissible solutions to protect their property. It is my understanding that local property owners in the Harbor Island community are currently working on a long term solution to renourish the beach (this plan includes the Gardners property) and that a permit application will be submitted to SCDHEC-OCRM in the next couple of weeks.

I appreciate the Gardner's acknowledging the efforts SCDHEC-OCRM staff has made in working with them and the other citizens along the beach with similar concerns. I am hopeful that by pursuing allowable 'soft solutions' to address the beach erosion the Gardners and other property owners will be able to craft a long term approach to addressing this challenging situation.

Sincerely,



Blair N. Williams  
Manager, Wetland Permitting Section, SCDHEC-OCRM

Cc: Sara P. Bazemore, Deputy Director, SCDHEC-OCRM  
Rheta DiNovo, Director, SCDHEC-OCRM Regulatory Division