

MINUTES OF BUDGET AND CONTROL BOARD MEETING

OCTOBER 14 1971

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The Budget and Control Board met in the Conference Room of the State Auditor's Office at 10:00 a. m. on Thursday, October 14, 1971, for the purpose of conducting budget hearings. All Board members were in attendance except Senator Edgar A. Brown. Also in attendance was Mr. P. C. Smith, Secretary to the Board.

The heads of the following Departments appeared before the Board to present their budget requests.

Personnel Division
State Employees Association
Department of Labor
South Carolina State Library
Department of Education

The Water Resources Commission presented a recommendation to the Budget and Control Board opposing the request of Dr. Harry C. Tiller for the dredging of a canal on Pawleys Island. The Board adopted the recommendation of the Water Resources Commission as its own, thereby opposing the request. (A copy of this recommendation is attached and is designated as Exhibit I)

Upon a motion of Mr. Henry Mills, Comptroller General, the Board unanimously approved the designating of the new State office building which is being constructed in the Capitol Complex as the Edgar A. Brown Building. This building will be over the underground parking facility and will be bordered on the east by Sumter Street and on the south by Pendleton Street.

There being no further business, the meeting was adjourned.

AGENDA MATERIALS
AND SUPPORTING DOCUMENTS
FOR THE MEETING OF
OCTOBER 14, 1971

EXHIBIT I

OCTOBER 14, 1971

Adopted - Be Board

Oct. 14, 1971

RS

Recommendation of South Carolina Water Resources Commission
to

South Carolina Budget and Control Board

Re: Dr. Harry C. Tiller
Georgetown County, South Carolina
P/N 71-77 (Revised)

Pursuant to procedure adopted by the S. C. Water Resources Commission and other appropriate State agencies, a public hearing was held September 15, 1971, in Conference Room 323 of the State of South Carolina Department of Mental Health Administration Building at 2414 Bull Street, Columbia, South Carolina, at 10:30 a.m., with the purpose to hear testimony with regard to permit application, P/N 71-77 (Revised), of Dr. Harry C. Tiller of Georgetown, S. C., "to dredge a canal and redredge an access canal into Pawleys Island Creek west of the north end of Pawleys Island adjacent to U. S. Highway No. 17, Georgetown County, South Carolina."

The hearing record was held open until 12:00 noon of September 30, 1971, for those who wished to file in writing additional information with the S. C. Water Resources Commission concerning the said permit application. *As a result of said hearing, one-hundred-one (101) statements received were in opposition to the granting of the permit while two (2) statements were received in favor of the permit, set forth in Appendix "B" attached hereto.

Having considered and weighed all the submitted comments, both oral and written, it is now the recommendation of the South Carolina Water Resources Commission to the South Carolina State Budget and Control Board that said permit application of Dr. Harry C. Tiller, P/N 71-77 (Revised) should be denied for reasons hereinafter set forth in Appendix "A" and attached, adopted by the South Carolina Water Resources Commission this 13th day of October, 1971, meeting in special session.

*Appendix "B".

Harry S. Bell - As Directed -
Harry S. Bell (S)
Chairman

APPENDIX A

It is noted that said permit application, P/N 71-77, (Revised) as submitted to the Corps of Engineers, U. S. Army, is a revised application of petitioner, filed August 4, 1971. The revised public notice states that application has been made "for a permit to dredge a canal and redredge an access canal into Pawleys Island Creek west of the north end of Pawleys Island adjacent to U. S. Highway # 17, Georgetown County, South Carolina."

As a means of some enlightenment upon the matter, a short history of the property in question is now given. The Legislature of South Carolina passed an act in 1957 conferring upon Dr. Tiller's predecessor-in-title, title to some 90 acres of land, more or less, all or most of which was marshland. Thereafter the State questioned the title to the property and a law suit was initiated by the State of South Carolina, Attorney General's Office, asserting some ownership in the property, as the owner of all tidelands, all submerged lands, and all navigable waters in Georgetown County, South Carolina. By consent and court decree, an order was issued stating that the State and the petitioner had agreed to stipulate that the mean high water mark was as shown on a plat dated November 24, 1969, set by a registered land surveyor, and recorded in Plat Book U. at page 51 in Georgetown County.

The petitioner, then, was decreed to have title to all the property above the stipulated high water mark, some 54 acres, while the State would retain the remaining property below the stipulated high water mark, some 33 acres. This order was signed on the 6th day of December, 1969.

Thereafter, but prior to January 5, 1970, the petitioner herein submitted to the State of South Carolina (Division of General Services, State Budget and Control Board) and the Corps of Engineers a permit application to dredge a canal more than 3200 feet in length, 75 feet in width, and 4 feet in depth in approximately the same area as revised permit application P/N 71-77 now proposes.

On or about January 5, 1970, the Division of General Services issued its permit to the petitioner for the proposed 3200 foot canal, subject to approval by the U. S. Army Corps of Engineers. The South Carolina Water Resources Commission is informed and believes that said application is now at Secretary of the Army level and as of this date has not been acted upon.

Subsequently, it is understood, the Corps of Engineers established a new high water mark in the property claimed by the petitioner, at some distance above the high water mark as stipulated in the previously mentioned court decree, in effect, moving that area inland which is considered to be high land. The revised application, P/N 71-77, proposes to dredge a new canal 2650 feet along the Corps of Engineers' high water mark and place the spoil above such high water mark, the result, the petitioner states, being that no marshland would be destroyed inasmuch as all property above the mean high water mark is theoretically high land.

Therefore, acknowledging that subject revised application is a new application, the South Carolina Water Resources Commission shall treat it as such, without regard to any applications heretofore submitted or acted upon.

In assembling the facts brought before this Commission, oral and written, in order to make a conscientious recommendation to the Budget and Control Board, the following subjects surfaced with extensive treatment: economics; fish, wildlife and water supply; navigation; aesthetics; water quality; and ecology and ecosystems. Recognizing that several are overlapping and necessarily interdependent, they shall be treated as such, when deemed proper. Of primary importance in making any recommendation with respect to petitioners' permit application are comments made by petitioner himself as compared to comments of interested State agencies and the public.

Furthermore, we approach the subject revised application cognizant of the fact that the property in question is that which is asumed to be privately owned. We do not take the responsibility to decide title to property, and at the same time we do not assume the character of property by paper title. It has been brought to the attention of this Commission that petitioner's fifty-four acres are to a great extent marshland or tideland, regardless of where the high water mark may be. We do not disregard such high water marks, but merely look objectively at the character of the land in question.

Little has been stated as to what economical gain or loss will be actuated by the proposed dredging and redredging of the canals as outlined by petitioner. That is, there have been few facts directed to the actual creation of such canals and any economic effects thereby resulting. Much has been said with regard to after-effects of said dredging but that will be discussed under other headings. In the event the spoil area created by such dredging is developed for housing or similar construction, then there will be economic factors to be considered, such as building contracts, increased tax revenues, and consumer spending. It naturally follows that such economic factors will be the result of increased human activity in the area. There will be a greater demand for recreational areas, proper sewage facilities, foodstuffs, etc.

The effects of the proposed work on marine life, water quality standard, and ecology are similar in many respects and are treated, therefore, simultaneously. It has been the consensus of the agencies who oppose the granting of the permit that the proposed dredging and redredging of the canals would create an imbalance in the natural productivity of the subject marshland, thereby virtually destroying or rendering useless the area for the propagation of the marine and estuarine animal life forms as are found there. It has been shown in past intrusions in the marshlands that piecemeal filling and dredging in such areas, with resulting destruction, alters the tidal

exchange, mixing, and circulation vital to nursery grounds of aquatic animals; increases the flushing time, segmentation of marshes which prompts shoaling; increases the amount of salt water intrusion; and increases the turbidity and loss of submerged aquatic vegetation.

Inasmuch as ecology is an interrelationship among plants and animals to their surroundings and to each other, it is important that a natural balance be maintained in such areas so that a loss in any one part of any system will not create a breakdown in the whole ecosystem. Losses in aquatic foodstuffs by dredging and filling either diminishes the number of water animals who can feed, or sustains only a minimal number. The singular loss of any part of any marshland can be measured in the decreased amounts of actively gathered crabs, clams, oysters, fish, and other aquatic life forms. The losses of such aquatic animals will naturally tend to reduce the number of other marsh wildlife which live in these areas, the waterfowl and marsh animals preying upon the aquatic animals for food. Considering the acreage of marshland available in the Pawleys Island area, and adding thereto the increased human activity mentioned previously, it is concluded as unlikely that the area can sustain its present burden and carry, in addition, the increase in pollution problems to water and food, destruction of natural barriers to waves and storms, and increased withdrawals of its marine life.

As to the effects that may be had upon the quality of the water itself with regard to actual dredging, it has been concluded that mere dredging in itself will not impair the quality of the water. But the existence of the canal subsequent to dredging in this area will undoubtedly increase the water flow in volume and turbidity, as pointed out earlier. It is well to direct several remarks again to any intended use to which the spoiled, filled area may be put. In the event construction for

human habitation is the intended purpose of such area, then we note that if any sewage outfall should flow into the marshes of the project area, an undetermined portion of Pawleys Island Creek and contiguous marshland would have to be closed and restricted or prohibited for the harvest of oysters, clams, and crabs. There may be forthcoming adequate assurances that no water quality contraconvention will be incurred due to discharges from housing developments or similar developments, but until such time there is need to anticipate all aspects of such concern.

Aesthetics are many things that may appeal to the emotions as having natural beauty. What may be aesthetical to one person, may of course, not be to another. But it has been conceded that a natural area such as Pawleys Island is rich in aesthetical values and there has been much public concern in this area. Whether or not the aesthetical values of the area would be impaired by dredging and filling in the marsh would be dependent of course, upon the resulting actions of such dredging. Most have been discussed above with regard to fish and wildlife, human activity, and water action. These are the things, however, which in themselves determine the aesthetical values of the area. Areas such as Pawleys Island in its natural setting are what draw people to look and participate in the activities and recreations present there.

Public demand increases each year for bigger and better recreational sites and points of interest to visit, free of litter and modern construction. If this State is to meet that demand, it must have an established plan for the development of any area, including especially the tidelands. Construction of any type in the marshlands should be withheld, or acted upon with upmost caution and suspicion, until a comprehensive study has been made by State officials, with local advice, to determine the best use to which any of these areas can be put.

There has been made from time to time inferences that the State has been too lax or negligent in its management of coastal marshlands. We must be mindful, however,

of the fact that this State has been blessed with over one-half million acres of land covered and uncovered each day by the ebb and flow of tide, stretching the entire coastline of South Carolina. Available monies and manpower do not presently exist to effectively manage, patrol, and safeguard the public's interest in these areas. Responsible State agencies must at the present time rely to a large extent on private concern for reports of intrusions in the estuaries.

The people of this State, for whom the marshlands are held in trust, are surely aware that these lands are rich in natural, commercial, recreational, industrial, and aesthetic resources, of immediate and potential value to the present and future well-being of our State. And these areas are not of limited capabilities, but, on the contrary, provide alternatives and choices in development and use. Ill-thought decisions and unconsidered results will surely impair the economical and recreational value of the marshlands.

Neighboring states have had unfortunate experiences in dealing with their coastal areas, which bad experiences we should take every advantage of in order to avoid similar or worse mishaps. Unorganized utilization without regulation, with resulting destruction of marshlands, have cost untold sums in monies and man-hours to correct and control irreparable damage done to these type areas. We must not now pass over this envious position we find ourselves in by failing to take advantage of the mistakes of others.

The ever present fact that once a marshland is destroyed it is irretrievably lost should be tantamount in every decision to grant or deny a permit to work in the marshlands. Pawleys Island is an historic site in this State, whose folklore and history are among the noteworthy on the southeastern coast. Aquatic and other forms of wildlife find refuge there, it is a popular place for tourists to visit because of its present character, it exists today much as it did three-hundred years, ago, and it has substantial watercourses and waterways to meet public demand.

The State of South Carolina is now facing many different environmental problems calling for effective management guidelines including that of meaningful land use control, specifically in the tidelands. With little or no instructions and policies with which to be guided, the State has had to proceed with the protection of the marshlands. And here it is reiterated that such protection is for and in the interest of the public. Present case law interpretation of legislative acts is stated as being that the State holds title to all lands and waters below the mean high water mark on tidal navigable streams, not for the purpose of sale, but to be held in trust for public purposes. And whether or not the Legislature itself can divest the public of title to such property is questionable. No other agency could have that power since only the Legislature itself sits in representation of the people.

And the people have voiced their interest in other matters closely associated with the type properties of which we now speak. The State claims title to all animals wild in nature which inhabit permanently these properties. And the right to regulate and manage wildlife must be delegated to the State for public purposes, regardless of who claims ownership in the property. In an area of widespread concern such as wildlife management can be found an example of privilege that parallels the management of marshland. The use, enjoyment, and conversion of marshland, like wildlife, is not an individual right, but a privilege, to be exercised with due diligence and regard with respect to the privilege of others.

Thoughtful and efficient regulations, policies, and guidelines must be forthcoming from the Legislature in order to preserve and utilize the coastal tidelands. Today's problems cannot always be solved by the rules and laws of one hundred or two hundred years ago. The ways and means by which people could conduct themselves in past decades cannot be adhered to in all respects today. The mere passage of time changes the rules by which we must govern ourselves to achieve orderly progress with meaningful

results. Piecemeal filling and development with none or minimal standards cannot suffice to give harmony and balance to our coastline.

For such reasons we recommend the denial of permit application P/N 71-77 (Revised) of Dr. Tiller and other similar projects. The irretrievable destruction of marshland, the effects on aquatic animals and other wildlife, the increase in human activity, and the possible degradation and loss of water quality standard in Pawleys Island and contiguous areas, we feel, are not in the best interests of the State and its people.

APPENDIX B

OPPOSED

- 1 - U. S. Senator
- 1 - Federal Agency
- 4 - State Agencies
- 5 - Civic Organizations
- 90 - Public Statements

IN FAVOR

- 2 - Public Statements

NO OPPOSITION

- 3 - State Agencies

E N D