



Catherine E. Heigel, Director

Promoting and protecting the health of the public and the environment

April 15, 2016

Mr. Robert J. Paoletti, HOA President
Heather Lakes Homeowner's Association

Subject: Permit to Repair Lower Heather Lakes Dam (D 3623) in Horry County;
PERMIT NO. 26-0002

Dear Mr. Robert J. Paoletti:

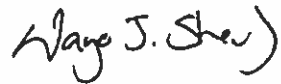
The South Carolina Department of Health and Environmental Control (Department/DHEC) has reviewed your permit application to repair Lower Heather Lakes Dam (D 3623), together with plans prepared by H. Grady Adkins, Jr., P.E., of Rizzo Associates. Your application has been approved. Enclosed is your **PERMIT NO. 26-0002**. This existing dam is currently classified as significant hazard (Class Two) by DHEC.

Please note the special provision in the permit that you give written notification to DHEC when permitted work is complete and that your engineer give written certification that work was performed in conformance with the plans and specifications approved by the Department. Once notified, the Department will schedule a post-construction inspection with your engineer. DHEC can only issue a Certificate of Completion and Operation based on satisfactory results of the post-construction inspection. You shall not impound or raise the water level in the reservoir until a certificate of completion and operation is issued by the Department.

Please see the enclosed "Guide to Board Review" for information on how to appeal the conditions of this permit. Also, please be aware that obtaining this permit from DHEC's Dam Safety Program does not relieve you of your responsibility to obtain any other federal, state or local permits that may be required.

If you have any questions regarding the contents of this letter or the enclosed permit, feel free to contact me at (803) 898-4212 or shealywj@dhec.sc.gov.

Sincerely,

A handwritten signature in black ink that reads "Wayne J. Shealy". The signature is written in a cursive style with a large initial "W".

Wayne J. Shealy
Environmental Engineer
Dam Safety Program, Bureau of Water
SC Dept. of Health and Environmental Control

Enclosed: (1) Guide to Board Review
(2) PERMIT NO. 26-0002
(3) Surveillance, Emergency Notification, and Action Plan

cc: H. Grady Adkins, Jr., P.E., Rizzo Associates
Larry Ragsdale, Myrtle Beach EQC Office

PERMIT NO. 26-0002

NAME OF APPLICANT: Mr. Robert J. Paoletti, HOA President
Heather Lakes Homeowner's Association

EFFECTIVE DATE: April 15, 2016

**SOUTH CAROLINA
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
DAMS & RESERVOIRS SAFETY**

PERMIT

Approval of plans and specifications for the repair, alteration, construction, or removal of dams and reservoirs is required under provisions of the "Dams and Reservoirs Safety Act" (Article 3, Chapter 11, Title 49 of the Code of Laws of S.C., 1976).

This permit constitutes approval for: Mr. Robert J. Paoletti, HOA President
Heather Lakes Homeowner's Association



to: repair Lower Heather Lakes Dam (D 3623) in Horry County

GENERAL CONDITIONS:

1. That all activities identified and authorized herein including the approved plans and specifications shall be consistent with the terms and conditions of this permit; and that any activity performed in any manner inconsistent with the activities authorized herein shall constitute a violation of this permit, which may result in modification, suspension or revocation of this permit, in whole or in part, and the institution of such legal proceedings as the Department of Health and Environmental Control may consider appropriate.

2. That this permit may be summarily suspended, in whole or in part, upon a finding by the Department, or its authorized agents, that the work being constructed or as constructed is in variance with the herein approved plans and specifications or the terms of this permit. The Department may order, upon such finding of noncompliance, that the offending portion or portions of such structure be immediately removed or otherwise put into conformance with approved plans and specifications at the permittee's expense.

3. That this permit may be suspended or modified in whole or in part, upon a finding by the Department or its authorized agents, that such suspension or modification is deemed

necessary to protect public health or safety. Any modification or suspension of this permit shall not be the basis for any claim of damages against the State of South Carolina.

4. That this permit does not convey, expressly or impliedly, any property in rights in real estate or material, nor any exclusive privileges; nor does it authorize the permittee to alienate, diminish, infringe upon or otherwise restrict the property rights of any other person or the public; nor shall this permit be interpreted as appropriating public properties for private use.

5. That the permittee shall provide the Department or its authorized agents or representatives access to make periodic inspections at any time deemed necessary in order to assure that the activity being performed is in accordance with the terms and conditions of this permit.

6. That this permit does not relieve you of your responsibility to obtain any other federal, state or local permits that may be required by law for the activity authorized herein. Issuance of this permit does not, nor shall be interpreted as to, relieve the permittee/owner of the responsibility for maintaining such structure in a safe condition throughout the life of the structure. Nothing in this permit shall be construed to relieve an owner of a dam or reservoir of the legal duties, obligations or liabilities incident to the ownership of a dam or reservoir, nor shall an action against the State of South Carolina, its agencies or employees, lie by reasons of the issuance of this permit or the terms or conditions contained herein.

7. That the permittee agrees to maintain the authorized structure in good condition in accordance with approved plans and specifications throughout the life of such structure.

8. That this impoundment or water control structure is located in Horry County as shown on the map submitted as part of the permit application which has been made part of this permit. The Myrtle Beach EQC Regional Office serves the area where this dam is located.

SPECIAL CONDITIONS:

1. When construction is complete, the owner's engineer must notify DHEC in writing within 10 days that the dam has been properly constructed. DHEC will then schedule a post-construction inspection of the dam with the engineer. Once the post-construction inspection is satisfactorily completed, the Department will issue a Certificate of Completion and Operation. The permittee/owner shall not impound or raise the water level in the reservoir until a Certificate of Completion and Operation is issued by the Department.

2. An updated Surveillance, Emergency Notification, and Action Plan (i.e., Emergency Action Plan) must be submitted prior to the Certificate of Completion and Operation being issued. Please complete the enclosed document and submit it to the Department.

This permit shall become effective on the date of the Section Representative's Signature.

Wayne J. Shealy

April 15, 2016

Date

Wayne J. Shealy

Section Representative
Dam Safety Program, Bureau of Water
SC Dept. of Health and Environmental Control

File: Lower Heather Lakes Dam (D 3623)

cc: H. Grady Adkins, Jr., P.E., Rizzo Associates
Larry Ragsdale, Myrtle Beach EQC Office

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.