



Press Release

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### **Groups challenge state permitting process for residential septic tanks on dynamic beaches**

Folly Beach, SC— In recent years, uncovered or leaking residential septic tanks have become more common on South Carolina beaches. And while the consequences of existing, poorly sited septic tanks are expanding, the legal framework remains in place for new septic tanks to be constructed in high-risk and even completely unworkable beachfront locations.

A flagrant example of what prompts this phenomenon is occurring now—a septic permit has been granted on a Folly Beach lot that is often underwater. The Coastal Conservation League, Save Folly Beach, Inc., and the South Carolina Environmental Law Project have written the S.C. Department of Health and Environmental Control, appealing for a change in the agency’s interpretation and application of its septic regulations, so as to incorporate consideration of factors like coastal erosion, sand migration, and renourishment durability. As it stands today, the Agency’s coastal expertise and knowledge is ignored for most septic permitting, even on dynamic, ever-changing beaches.

DHEC’s septic regulations require a 75-foot setback between septic systems and the ocean. A fundamental weakness in this requirement, however, is that DHEC verifies the setback distance only once, and it does that by reviewing a survey from the septic applicant. When issuing septic permits on beachfront lots, DHEC does not consider whether a property has eroded into the ocean in the recent past, or whether more erosion is likely to occur soon. What’s worse is that new, artificially placed sand from renourishment projects can be used to satisfy the setback.

“Right now on the beachfront, more structures are actively threatened by the forces of sea level, erosion, and storms, and, as a state, South Carolina is struggling with how to respond. At the same time, the economic and legal incentives are in place to drive more people to pursue building too close to the ocean,” **Michael Corley, SCELP staff attorney**, said.

“The state owes it to its citizens to curb these perverse incentives, and there is no more logical place to start than with the terribly dated policies that allow disposal of sewer on our imperiled and eroding beaches,” he said.

“It is deeply concerning that we have allowed dated septic permits and policies to stand. Our beaches are dynamic and constantly changing and our regulations should reflect that reality,” **Conservation League Land, Water & Wildlife Program Director Emily Cedzo** said. “We are calling on DHEC to fulfill its mission and protect the health of citizens, our coastal communities and environment.”

“Allowing more septic tanks and leech fields on highly erosional sandy beaches and beach dune systems is irresponsible and inexcusable. It is a hazard to our health, causes pollution to the environment and promotes development that decimates the beach,” **Matt Napier, a Folly Beach resident with the nonprofit Save Folly Beach**, said.

A permit that DHEC issued on November 20, 2018 illustrates the problems inherent in the agency’s approach. Under the current system, a property at 1735 East Ashley Ave. was granted a septic permit, even though the property had been underwater days before the permit application, prior to beach renourishment. Under the agency’s present interpretation of its septic regulations, the permitting process does not consider that this property is chronically and consistently eroded, because the renourishment allowed a moment of setback compliance. But just because the sand on that property was renourished doesn’t mean that sand will remain in place for long.

**On behalf of Save Folly Beach, SCELP intends to challenge the septic permit issued at 1735 East Ashley by asking the DHEC Board of Directors to consider reversing that permit. The groups believe such a challenge can serve as a springboard for a discussion around the fundamental problems in the agency’s system for permitting beachfront septic systems.**

“I was on this property days prior to the renourishment, and the entire property was either ocean or vegetated sand dunes. I’m astonished that DHEC would take action to promote development of such a property,” **Corley** said.

One obvious shortcoming driving these outcomes is that the DHEC process exempts septic tanks from its usual Coastal Zone Consistency review. Practically any other activity requiring an environmental permit on the coast must also go through a separate review for consistency with our state’s Coastal Zone Management Program. This review is intended to give weight to the unique attributes and value of natural resources on the coast. Septic permits, however, are exempted from this review under DHEC’s interpretation. This means that a septic system proposed on the oceanfront—the failure of which could have devastating consequences—must satisfy only the standards of a septic system in places like Columbia or Greenville.<sup>1</sup> (Please see the attached exhibits, which help to illustrate the inadequacy of the state agency’s process.)

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The **Coastal Conservation League** is a nonprofit advocacy organization dedicated to protecting the coastal resources of South Carolina. Its mission is to protect the state’s natural landscapes, abundant wildlife, clean water and quality of life. Since 1989, the Conservation League has carried out this mission by working with citizens, local government and the state legislature.

Established in 2018, **Save Folly Beach** is a community-based organization that aims to preserve Folly Beach from unsustainable and unsafe beachfront development.

The **S.C. Environmental Law Project** is a nonprofit public interest law firm, dedicated to the protection of South Carolina’s environment.

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<sup>1</sup> This issue is further complicated by the fact that, prior to 2006, DHEC issued septic permits with a lifespan of 20 years (the term is now five years). With legislative “run time” suspensions that have been passed over the years, that term has been extended, so that a septic permit issued in 1995 now does not expire until 2024. The dire situation now occurring on Folly Beach and elsewhere is that lots have been granted a septic permit in the mid-90s or before, and have been underwater on several occasions since then, but the permit still survives and a septic system could be built on the high risk erosional lots today.