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Environmental groups seek ruling on septic tank permitting

CHARLESTON, SC – South Carolina’s coast is experiencing increasing development pressures, particularly in rural areas outside of established utility services. In these areas, dense clusters of conventional septic systems are often installed on small lots by developers for household wastewater treatment due to low initial development costs and the ease of obtaining septic permits.

But septic systems can pose dangers to the environment and human health when densely or improperly placed near coastal waters. Even well-maintained tanks can leak untreated human waste and other harmful pollutants into nearby waterbodies if geological and hydrological conditions are not suitable for onsite wastewater treatment. When septic tanks are not properly maintained or installed in high-density developments, these risks are even greater. Currently, the South Carolina Department of Health and Environmental Control (DHEC) does not review individual, residential septic tank permits for consistency with the state’s Coastal Management Program when they are placed in the coastal zone – which is comprised of the state’s eight coastal counties – despite applying these policies to almost every other type of state or federal permit.

On Thursday, November 10, the **South Carolina Environmental Law Project** (SCELP) filed a declaratory judgment action on behalf of **Charleston Waterkeeper** and the **Coastal Conservation League**, asking the court to rule as a matter of law that DHEC has a statutory obligation to review all state and federal permits, including septic systems, for coastal zone consistency.

In addition, this complaint asks that the court order DHEC to publicly notice all septic system applications and permits, as they do other permits, in order to promote transparency and ensure that agency decisions with the potential for broad, long-term impacts are not being made behind closed doors.

"Septic systems are not inherently problematic when sited correctly, but we are increasingly seeing developers cluster septic systems by the dozens and even hundreds within sensitive coastal areas and in close proximity to waterways," said Emily Nellerhoe, Staff Attorney at SCELPA.

South Carolina law does not require property owners to have existing septic systems inspected or maintained, which can lead to both short and long-term environmental problems. In Charleston, a recent study of the routinely impaired waters of the James Island Creek Watershed examined the correlation between two clusters of septic systems – an estimated 181 densely-placed septic tanks near the Simpson Creek tributary, and another cluster of approximately 27 septic tanks adjacent to James Island Creek – and water quality data from two sampling locations, collected by Charleston Waterkeeper over the course of eight years. That study and the associated Watershed Management Plan concluded that septic systems had a high likelihood of being a major source of the bacteria *Enterococci* in the waters of James Island Creek.

"The evidence is clear: septic tanks, especially in dense clusters, are a menace for our coastal waterways, causing bacteria and pathogen pollution," said Andrew Wunderley, Executive Director of Charleston Waterkeeper. "DHEC must do a better job of making sure that septic tanks don't harm our coastal waterways and water quality."

The EPA estimates that as many as twenty percent of existing septic tanks are likely malfunctioning to some degree. According to DHEC, ten to thirty percent of septic systems fail to work properly in an average year. These malfunctioning septic systems harm our waterways, wildlife, and surrounding habitats and adversely impact the public's ability to safely enjoy the state's waters for recreation, shellfish harvesting, and more.

"As more large tract subdivision developers propose massive clusters of septic tanks in sensitive areas along our coast, it is imperative that DHEC meet its statutory charge to review all permits, including septic, in the coastal zone," said Faith Rivers James, Executive Director of the Coastal Conservation League.

Until DHEC considers all the environmental impacts of septic tanks, especially in ecologically delicate coastal areas, septic systems will continue to present risks to the quality of life for our communities and surrounding environment.

"This lawsuit is all about asking the court to hold DHEC accountable, not only to their statutory duty to review all state and federal permits within the coastal zone, but also to their mission statement to protect and promote the health of the public and the environment," said Nellerhoe.

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The South Carolina Environmental Law Project is a nonprofit public interest law firm. We use our legal expertise to protect land, water and communities across South Carolina. Learn more at www.scelp.org.

Charleston Waterkeeper is a nonprofit organization founded in 2009 to protect and restore Charleston's waterways for our community and for future generations. We do that through an effective mix of boots-on-the-water stewardship and data-driven advocacy designed to protect your right to clean water for fishing and swimming. Learn more at www.charlestonwaterkeeper.org.

Since 1989, the Coastal Conservation League has worked to protect the health of the natural resources of the South Carolina coastal plain and ensure a high quality of life for all of the people who live in and love this special place. The Coastal Conservation League is a 501(c)3 charitable organization. Learn more and get involved at www.coastalconservationleague.org.