

## **International Drive Status Update (as of 1/12/2016)**

### **Updated schedule:**

On July 29, 2015, the SC-DHEC Board declined the SC Environmental Law Project (SCELP) request to conduct a final review conference on the issue of the pending SC-DHEC Permit (Sec 401). This action triggered the 30-day window where SCELP (on behalf of the Coastal Conservation League and the SC Wildlife Federation) was able to file an additional appeal with the Administrative Law Court (ALC). This appeal was filed at the end of the allotted 30-day window on August 28, 2015. On November 10, 2015, the ALC scheduled the hearing for the appeal, which has been set for February 16 – 18, 2016.

The Army Corps of Engineers (ACOE) cannot issue their required Sec 404 permit (for wetland impacts) until DHEC issues their 401 permit, which will not be issued until the above appeals process is completed. Completion of project is expected 12-18 months after the start of construction, which has been delayed due to the appeals process.

### **Current Status (as of January 2016):**

- **General status:** Design is substantially complete, right-of-way acquisition is nearing completion (over 75% complete), and the original environmental permit application was submitted in late November 2013. Between November 2013 and February 2015, two rounds of comments and responses to the permit application have been received and submitted to the ACOE and SC-DHEC. Imminent permit issuance was delayed in July 2015 due to the (permit) appeals process. Specifically, the SC-DHEC Sec 401 permit will not be issued until the appeals process is completed. See details below for the status of the appeal and the next steps.
- **Environmental Permit status:**
  - Comments on the original November 2013 permit application were received on May 7, 2014, and issues had been worked through directly with the agencies. Some comments required the installation of additional monitoring wells for mitigation; these monitoring wells did not perform as expected during the summer of 2014 - our formal response to comments were delayed as a result. The formal response to comments was sent back to the ACOE in late 2014 and included an updated wetland mitigation plan to purchase wetland credits from an approved bank (in line with ACOE requirements). Permits are being sought for a four-lane roadway.
  - A second round of comments to our late 2014 revised response was received in early February 2015, and the county submitted a final response to these latest comments to the ACOE and SC-DHEC at the end of February 2015.
  - On June 25, 2015, SC-DHEC issued their "Notice of Decision" of the pending Sec 401 permit. This document provides notice to interested parties (including the permit applicant, agencies, and other groups that previously provided comments) that the SC-DHEC Sec 401 permit will be issued in 15 days if an appeal / "Request for Review" isn't received. This Sec 401 permit needs to be issued to before the ACOE is able to issue their wetland fill permit (Sec 404).
  - On July 10, 2015 (the 15<sup>th</sup> and final day of the initial appeal period), the pending SC-DHEC Permit (Sec 401) was appealed by the SC Environmental Law Project (SCELP) on behalf of the SC Coastal Conservation League and the SC Wildlife Federation. Among the concerns listed, the "Request for Review" (appeal) document requests DHEC to require a two-lane roadway, taller barbed wire fencing, and three underground passageways for "bears and other wildlife" as conditions of their permit.
  - On July 29, 2015, the SC-DHEC Board formally issued written notice that they declined the SCELP "Request for Review". As provided by state laws and regulations, the SC-DHEC's board's written decision triggered the 30-day window where SCELP is able to file an additional appeal with the Administrative Law Court (ALC). This appeal is formally known as a "contested case hearing".

- SCELP formally filed a “contested case hearing” (appeal) with the ALC on August 28, 2015, which was the last day of the allotted 30-day appeal period. On November 10, 2015, the ALC formally scheduled the hearing dates, which have been set for February 16 – 18, 2016.
- The International Drive project continues to be on-hold until this appeal works its way through the system. See “next steps” below for details and timeframes of the remaining appeal process.

**Next steps:**

- With the “contested case hearing” scheduled for February 16 – 18, 2016, a decision by the Administrative Law Court (ALC) could be expected during the spring of 2016 given the typical six to nine month timeframe for the ALC appeal process run its course (from the date of the initial filing of appeal – Aug 28, 2015 - until the ALC final order / decision is issued).
- The ALC final order can then be appealed to the SC Appeals Court and even to the SC State Supreme Court; these additional appeals will add further delays of two or more additional years to work their way through the system (if these additional appeals are sought).
- If the Administrative Law Court rules favorably in support of the project (or any other higher court in the event that further appeals are filed), the SC-DHEC Sect 401 permit will then become final, and the ACOE will be able to issue their Sec 404 (wetland fill) permit. This will then complete the state’s environmental permitting process. It is unknown at this time if any additional appeals to the state or federal permits will be filed.
- Within 30 days after receipt of environmental permits, the project will be advertised for construction bids. It is anticipated that construction will begin approximately three months after the bid advertisement date – allowing for one month between bid advertisement and bid opening, and several weeks after bid opening to obtain bonds / insurance, to execute the construction contract, and to allow the contractor to mobilize staff and equipment to begin working on the project.