



State of South Carolina

Office of the Governor

NIKKI R. HALEY
GOVERNOR

1205 PENDLETON STREET
COLUMBIA 29201

February 27, 2012

The Honorable Robert W. Harrell, Jr.
Speaker of the House of Representatives
506 Blatt Building
Columbia, South Carolina 29201

Dear Mr. Speaker and Members of the House,

I am hereby vetoing and returning without my approval H.4627, R-133, a joint resolution that attempts to suspend the Department of Health and Environmental Control's authority to enforce South Carolina's water quality laws with respect to the U.S. Army Corp's application to dredge a portion of the Savannah River as part of the Savannah River Expansion Project.

This Joint Resolution amounts to unconstitutional legislative overreaching into an agency's ruling. DHEC's decision to approve the Army Corps of Engineers' application for a 401 Water Quality Certification was based on law and scientific benchmarks.

Additionally, the Joint Resolution reflects a fundamental misunderstanding about the administrative process. Only DHEC can issue 401 Water Quality Certifications, which is why the Attorney General has opined that the Savannah River Maritime Commission has no authority to grant them. Further, under state law, a separate Construction in Navigable Waters Permit is not issued when a 401 Water Quality Certification is; our Code of Regulations makes this point clear in two different places. The Joint Resolution, however, purports to undo only a Construction in Navigable Waters Permit while leaving intact DHEC's 401 Water Quality Certification. Because DHEC never issued a separate, standalone Construction in Navigable Waters Permit, the Joint Resolution has no practical effect.

The fact that the General Assembly is attempting to reverse a permit that was not even issued perfectly demonstrates why the separation of powers doctrine directs the legislature not to overreach into the decisions of a state agency. For all of these reasons, I hereby veto H.4627, R-133.

Sincerely,

A handwritten signature in cursive script that reads "Nikki R. Haley".

Nikki R. Haley