

BEFORE THE SOUTH CAROLINA  
DEPARTMENT OF HEALTH  
AND ENVIRONMENTAL CONTROL

RECEIVED

AUG 14 2001

Clerk of DHEC Board

Central Midlands Council of  
Governments,

Petitioner,

v.

South Carolina Department  
of Health and Environmental  
Control,

Respondent.

PETITION FOR  
ADMINISTRATIVE REVIEW

RECEIVED

AUG 14 2001

DHEC  
OFFICE OF GENERAL COUNSEL

NATURE OF PROCEEDING

1. Pursuant to S. C. Code Regs. R.61-72 and § 1-23-310, *et seq.*, S. C. Code Ann. (1976) as amended, Central Midlands Council of Governments, a body politic organized and existing pursuant to S.C. Code Ann. § 7-6-110, *et seq.* (the "COG"), contests the actions of the Staff of the South Carolina Department of Health and Environmental Control ("DHEC") in refusing to certify an amendment to the Areawide 208 Water Quality Management Plan by the COG dated March 26, 2001 ("208 Plan Amendment") and requests the Board of Health and Environmental Control to direct that a contested case be held to review the actions of DHEC.

IDENTIFICATION OF PARTIES

2. This petition is made on behalf of:

Central Midlands Council of Governments  
236 Stoneridge Drive  
Columbia, South Carolina 29210

3. COG is the designated management to carry out Water Quality Management Planning for the four-county region consisting of Fairfield, Lexington, Newberry, and Richland Counties pursuant to Section 208 of the Clean Water Act, and has a direct and immediate interest in the actions of DHEC.

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4. The actions complained of were taken by the Bureau of Water of DHEC.

#### **TIMELINESS**

5. The action taken by DHEC was evidenced in a letter dated July 30, 2001 and received by the COG on that date. The COG is filing this Petition for Administrative Review within the fifteen (15) days allowed by the applicable Department regulation, S.C. Code Regs. R.61-72, § 201(A).

#### **REASONS SUPPORTING REVIEW**

6. COG seeks review of the action of DHEC in refusing to certify the 208 Plan Amendment. While DHEC's letter of July 30, 2001 alleges that it does not concur in the 208 Plan Amendment, it does not contain any relevant justification for same. Further, DHEC has advised the United States Environmental Protection Agency ("EPA") that the 208 Plan Amendment was not consistent with the State Water Quality Management Plan; however, even that letter (dated August 3, 2001) fails to contain any justification for the DHEC conclusion. The COG would assert that it has been designated by the Governor as the areawide management agency for the four-county region consisting of Fairfield, Lexington, Newberry, Richland Counties pursuant to 33 U.S.C. § 1228, and that DHEC lacks the authority to substitute its judgment for that of the COG. The COG acknowledges only that the Governor or his designee may determine whether the 208 Plan Amendment is consistent with the State Water Quality Management Plan and any other Areawide Water Quality Management Plans as provided in 40 C.F.R. § 130.6(e). The COG lacks sufficient information to determine if DHEC is authorized to act as the Governor's designee in this matter.

#### **PRIOR PROCEEDINGS**

7. There have been no prior proceedings in this matter.

### RELIEF REQUESTED

8. The COG respectfully requests that if DHEC is authorized to act as the Governor's designee in this matter it be directed to certify the 208 Plan Amendment to EPA.

### CROSS EXAMINATION

9. As required by S. C. Regs. R.61-72.201(9), the petitioner agrees to be subject to cross examination and to make any employee or consultant of the petitioner or such other person represented by the petitioner available for cross examination at the expense of the petitioner or such other person upon the request of the hearing officer, his own motion or on the motion of any party.

### CONCLUSIONS

10. For the reasons described above, the COG respectfully requests that its Petition for Administrative Review be granted and grant the relief requested herein.

Respectfully submitted,



Douglas E. Phillips, Executive Director  
Central Midlands Council of Governments  
236 Stoneridge Drive  
Columbia, South Carolina 29210  
(803) 376-5390, telephone

August 14, 2001  
Columbia, South Carolina.

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Central Midlands Council of  
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Request was filed with the Board by personally  
delivering a copy of same to the following:

ATTN: Clerk  
South Carolina Board of  
Health and Environmental Control  
2600 Bull Street  
Columbia, South Carolina 29201

with a copy delivered to:

Office of General Counsel  
South Carolina Board of  
Health and Environmental Control  
2600 Bull Street  
Columbia, South Carolina 29201

  
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August 14, 2001  
Columbia, South Carolina