**A** **CONCURRENT RESOLUTION**

RELATING TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL BOARD’S VOTE TO APPROVE THE UNITED STATES CORPS OF ENGINEER’S APPLICATION TO DREDGE THE SAVANNAH RIVER, TO RESOLVE THAT THE BOARD ACTED WITHOUT ANY INDEPENDENT CONSIDERATION AND ANALYSIS AND NEGLECTED ITS DUTY TO PROTECT THE ENVIRONMENT IN SOUTH CAROLINA, AND TO CALL UPON THE BOARD TO RECONSIDER THE MATTER AND OVERTURN THE BOARD’S APPLICATION APPROVAL.

Whereas, on September 30, 2011, the Department of Health and Environmental Control denied an application by the Savannah District Office of the United States Corps of Engineers for Water Quality Certification pursuant to Section 401 of the Clean Water Act, R. 61‑101, and Construction in Navigable Waters Permit pursuant to R. 19‑450, et. seq. that are necessary to proceed with dredging the Savannah River as part of the Savannah River Expansion Project; and

Whereas, on November 10, 2011, the Department of Health and Environmental Control Board voted unanimously to approve the Corps’ water quality certification and navigable waters permit after the department’s staff negotiated a proposed resolution to the disputed items in a closed‑door, last minute meeting with the Corps of Engineers and the Georgia Ports Authority; and

Whereas, the board voted to grant the certification and issued the permit before the agreement was written and without any critical analysis or review of the terms of the agreement and its impact on the environment and economy of South Carolina; simply relying on an oral representation of the agreement from departmental staff; and

Whereas, the certification granted and permit issued to the Corps of Engineers does not satisfactorily mitigate the damage to the environment in South Carolina that will result from dredging the Savannah River; and

Whereas, the dredging project will result in unacceptable levels of salt‑water intrusion in the Savannah River area, threatening safe drinking water supplies for low country counties that rely upon the river as their source of drinking water for their residents; and

Whereas, the dredging project will significantly reduce the dissolved oxygen content in the Savannah River posing a grave threat to aquatic animals and plants. The department has approved a risky plan to inject oxygen into the river that has never been used before on this scale; and

Whereas, the dredging project will have a devastating effect on salt water marshes in South Carolina. The department accepted the Corps of Engineers’ and Georgia Ports Authority’s promise to use an additional 1,600 acres of additional marshlands to mitigate the environmental damage, but the agreement entered into with the board does not identify the additional marshland to be used, thus it is unclear whether the Corps is proposing to use property already owned by the State; and

Whereas, the dredging project will destroy extensive areas of essential fish habitat and threaten the existence of the Shortnose Sturgeon, a federally listed Endangered Species, in the Savannah River. The certification and permit issued by the department does nothing to provide an adequate replacement habitat to prevent decimating the fish populations on the river; and

Whereas, a dredging project in the Savannah River that stopped at the site of the proposed Jasper Ocean Terminal would have had a far less adverse impact on the environment and should have been considered as an alternative, as required by federal and state law; and

Whereas, the department initially considered the proposed port in Jasper County as an alternative and denied the certification and permit, in part, because the Corps did not include the Jasper Ocean Terminal as a viable alternative but later decided that it lacked the expertise and knowledge to sustain their initial conclusion that the Jasper Ocean Terminal should be considered as an alternative; and

Whereas, the dredging project dooms the prospects of ever constructing the Jasper Ocean Terminal because the site of the proposed Jasper Port is slated to spend the next fifty years receiving dredge spoils from the Savannah River; and

Whereas, constructing the Jasper Ocean Terminal would provide an economic boost to an area of the State where unemployment runs far ahead of the statewide and national average; and

Whereas, approving the dredging project provides the Georgia Ports Authority a competitive advantage against the South Carolina Ports Authority in the highly competitive global shipping market that will result in additional economic development and job creation in Georgia, not South Carolina;

Whereas, the United States Corps of Engineers could not proceed with the dredging project without a water quality certification issued by the Department of Health and Environmental Control. Any assertion to the contrary is based upon a suspect interpretation of federal statutory and case law that would have the effect of allowing the Corps to disregard a state’s water quality standards in dredging projects in clear contravention to the provisions of the Clean Water Act; and

Whereas, the Board of the Department of Health and Environmental Control has, by granting this permit, ensured the environmental degradation of the Savannah River and undercut our state’s ability to expand its economy and bring new jobs to South Carolina. Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

That the Department of Health and Environmental Control Board acted without any independent consideration and analysis and neglected its duty to protect the environment in South Carolina by hastily voting to approve the United States Corps of Engineers application for a Water Quality Certification pursuant to Section 401 of the Clean Water Act, R. 61‑101, and Construction in Navigable Waters Permit pursuant to R. 19‑450, et. seq.

Be it further resolved by the Senate, the House of Representatives concurring:

That the Department of Health and Environmental Control Board should take whatever action necessary to reconsider the matter, undertaking a proper and thorough analysis of the impacts of the dredging project on the environment and economy of South Carolina, as required by law, and overturn the Water Quality Certification and Navigable Waters Permit issued by the board to the United States Corps of Engineers for dredging associated with the Savannah Harbor Expansion Project.

Be it further resolved that a copy of this resolution be forwarded to each Department of Health and Environmental Control board member and Governor Nikki Haley.

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