

COURT: Salt Marsh Filled Illegally

S.C. Supreme Court Bolsters State Authority

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In a decision that solidifies South Carolina's ability to protect salt marshes, the state Supreme Court Monday upheld sanctions against a man accused of illegally filling tidelands in North Myrtle Beach.

The Supreme Court's ruling will force property owner C. Wayne Hill to restore the salt marsh, which was filled in 2003, and pay a \$1,000 state fine, said Amy Armstrong, an environmental lawyer who worked with state regulators in the case against Hill.

Hill built a retaining wall in the marsh for his lot at Cherry Grove, then backfilled the property to "significantly increase" the size of the land, court records show. The 145-foot-long wall, or bulkhead, extended 31 feet into the watery marsh in some places, even though state regulators had not given him permission to do that, records show. Bulkheads are often built to keep water from eroding valuable coastal property, but only after state regulators grant permits.

"The Supreme Court arrived at the correct decision," Armstrong said. "You can't just go and fill in ... salt marsh and make your lot bigger."

Armstrong's nonprofit legal service often is at odds with state regulators, but in this case Armstrong and Department of Health and Environmental Control attorneys worked together. Adam Myrick, a DHEC spokesman, said the ruling means the department's enforcement action against Hill now will take effect. Efforts to reach Hill's lawyer, Kenneth R. Moss, were unsuccessful Monday.

The Hill case occurred in a small patch of coastline with a long and colorful history of disputes over salt marsh development. Cherry Grove, at the northern tip of North Myrtle Beach, contains a sizable tideland where canals were dug decades ago, long before the state's 1977 coastal management law was passed.



Over the years, some landowners have attempted to fill canal-side lots that were eroding back into the salt marsh — a practice that is illegal without state permits and is generally frowned upon by state regulators. In the 1970s, then-U.S. Rep. John Jenrette and his business partners attempted to sell lots carved from the marsh years earlier, but their plans ground to a halt when it was revealed some of the property was underwater.

In Hill's case, he challenged an administrative court's jurisdiction and said he had been singled out by state regulators for enforcement. He also raised questions about a deed that his lawyers said gave him rights to dump material in certain areas of the tideland. The Cherry Grove marsh was the subject of a land settlement between a private landowner and state officials years ago.

Later, a circuit court agreed with Hill, but in its ruling, the Supreme Court said the state has jurisdiction to regulate salt marshes and enforce the coastal zone management law. The court also said "a deed executed prior to the (coastal law) cannot usurp the state's regulatory authority." The court said Hill did not present convincing evidence of unfair treatment. Armstrong said the high court's ruling reaffirms the state's ability to protect salt marshes.

South Carolina has a vast system of such marshes from North Myrtle Beach to Hilton Head Island — areas that are under increasing development pressure as more people move to the coast. These marshes are nursery grounds for small shrimp, crabs and fish, which seek protection from predators amongst the grasses.

Hill's attorneys and Armstrong's organization, the S.C. Environmental Law Project, argued the case before the S.C. Supreme Court in June. It was the last court case Armstrong and her longtime law partner, Jimmy Chandler, participated in together before he died Aug. 7.