UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

March 31, 2017

Lt. Colonel Matthew Luzzatto
District Engineer
Attn: Mr. Stephen Brumagin
U.S. Army Corps of Engineers
69A Hagood Avenue
Charleston, South Carolina 29403-5107

Subject: I-73 SAC 2008-1333-DIS

Dear Colonel Luzzatto:

This letter is in response to your request for comments on the above referenced joint public notice (JPN). The South Carolina Department of Transportation (Applicant) seeks a permit to perform mechanized land clearing, excavation and the discharge of fill material, in waters of the United States to construct a new four lane limited access highway as part of the proposed I-73 interstate system, approximately 80 miles in length, and located in Marlboro, Dillon, Marion and Horry Counties, South Carolina. In detail, the I-73 project will include permanent placement of fill materials/structures in a total of 4,643 linear feet of stream and a total of 267.2 acres permanent fill, 17.1 acres permanent clearing, 4.4 acres excavation, and 48.9 acres temporary clearing of wetlands as well as 4.6 acres of open water impacts.

The U.S. Environmental Protection Agency Region 4 received a re-evaluation package for the I-73 project electronically on March 2, 2017. This package included a response to previous comments and an updated compensatory mitigation plan. As background, the project was initially put on public notice in 2011. The EPA expressed concerns with the applicant's compensatory mitigation plan in letters dated March 28, 2011, April 28, 2011, January 7, 2013, September 11, 2013, and July 29, 2014. The project was subsequently withdrawn and resubmitted with a revised mitigation plan pursuant to the JPN dated July 8, 2016. The EPA provided a comment letter on the new JPN and mitigation plan on September 6, 2016. The comment letter requested additional information on preservation portions of the plan and details such as objectives; a site protection instrument; a baseline data collection plan for biotic communities, hydrology, etc.; determination of credits; a mitigation work plan; a maintenance plan; performance standards; monitoring requirements; a long-term management plan; an adaptive management plan; and financial assurances, as required in the 2008 Mitigation Rule.

The applicant's revised mitigation plan is to preserve and enhance waters of the United States on a tract of land known as Gunter's Island. The tract is 6,134 acres in size with 89,836 linear feet of stream preservation and enhancement and 4,583.1 acres of wetland preservation and enhancement. The tract would then be transferred by fee simple ownership to South Carolina Department of Nature Resources (SCDNR) to become part of the Heritage Trust Program.

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The applicant has addressed the EPA's previous comment concerning the quality of preserved wetlands as a primary part of the mitigation plan, laying out how the wetlands met the five requirements of preservation in the 2008 Mitigation Rule. See 33 CFR § 332.3(h). Further, the applicant assessed the functions of the wetlands as well as the potential functional lift through enhancement and restoration projects using the North Carolina Wetland Assessment Method.

To further alleviate concerns that the mitigation plan was primarily preservation and would not meet the goals of the no net loss wetland policy, the applicant has agreed to include enhancement and restoration in the mitigation plan through road and culvert removal which will reestablish hydrologic connectivity across the site. The work will be completed by the SCDNR. The SCDNR has entered into an Memorandum of Agreement with the applicant, SCDOT, which will include a provision that the proposed work is completed in accordance with the mitigation plan. The SCDNR will perform the removal of the culverts and associated roadway fill to return the area as close as possible back to original grade. Through long-term management of the site, SCDNR will also remove planted pine and restore the reference wetland community in areas of historic silvicultural activity.

The updated mitigation plan now includes all the components required by the 2008 Mitigation Rule: objectives; a site protection instrument; a baseline data collection plan for biotic communities, hydrology, etc.; determination of credits; a mitigation work plan; a maintenance plan; performance standards; monitoring requirements; a long-term management plan; an adaptive management plan; and financial assurances.

Based on the above observations, the EPA has determined that all concerns regarding mitigation have been addressed and has no further comments.

Thank you for considering these comments in your permit review and issuance process. If you have any questions, please contact Mr. Kelly Laycock at laycock.kelly@epa.gov or (404) 562-9132 for more information.

Sincerely,

Tony Able

Tony Able
Chief
Wetlands and Streams Regulatory Section

cc: Mr. Stephen Brumagin, U.S. Army Corps of Engineers
Mr. Travis Hughes, U.S. Army Corps of Engineers
Mr. Mark Caldwell, U.S. Fish and Wildlife Service
Mr. Pace Wilber, National Marine Fisheries Service
Ms. Susan Davis, South Carolina Department of Natural Resources
Mr. Mark Giffin, South Carolina Department of Health and Environmental Control
Mr. Chuck Hightower, South Carolina Department of Health and Environmental Control