

PLEASE PRINT CLEARLY OR TYPE

STATE OF NORTH CAROLINA

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS

COUNTY OF (1) Wake

(2) Sounds Rivers, Clean Air Carolina, Center for Biological Diversity)
)
 _____)
 (your name) PETITIONER,)
)
 v.)
)
 (3) North Carolina Department of Environmental Quality –)
Division of Water Resources)
)
 _____)
 RESPONDENT.)
 (The State agency or board about which you are complaining))

**PETITION
FOR A
CONTESTED CASE HEARING**

I hereby ask for a contested case hearing as provided for by North Carolina General Statute § 150B-23 to challenge the actions of the Department of Environmental Quality – Division of Water Resources (“DWR”) in issuing 401 Water Quality Certification No. 4179 to NCDOT on February 15, 2019. The Certification as issued and DWR’s actions in issuing the Certification fail to comply with 15A NCAC 02H.0500 et seq. and other applicable law. DWR has failed to:

- (1) demonstrate a lack of practical alternatives to the Complete 540 Toll Highway;
- (2) demonstrate that the project, which will impact wetlands critical to the survival of rare or endangered species, is required to meet a demonstrated public need;
- (3) evaluate the full scope of the project specifically to ensure that the applicant has:
 - (a) minimized stream and wetland impacts
 - (b) demonstrated that the project will not degrade groundwaters and surface waters
 - (c) demonstrated that the project will not result in cumulative impacts that will cause a violation of water quality standards, including but not limited to preservation of existing uses in Class C waters such as habitat for endangered species, and
 - (d) provided for the replacement of existing uses through mitigation;
- (4) require stormwater management plans for two-thirds of the project.
- (5) evaluate the project consistent with the requirements of North Carolina law.

(4) Amount in controversy \$ NA (if applicable)

(5) Because of these facts, the State agency or board has: (check at least one from each column)

<input type="checkbox"/> deprived me of property;	<input checked="" type="checkbox"/> exceeded its authority or jurisdiction;
<input type="checkbox"/> ordered me to pay a fine or civil penalty; or	<input checked="" type="checkbox"/> acted erroneously;
<input checked="" type="checkbox"/> otherwise substantially prejudiced my rights;	<input checked="" type="checkbox"/> failed to use proper procedure;
AND	<input checked="" type="checkbox"/> acted arbitrarily or capriciously; or
	<input checked="" type="checkbox"/> failed to act as required by law or rule.

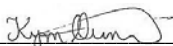
(6) Date: February 22, 2019

(7) Your phone number: (919) 967-1450

(8) Print your full address: 601 West Rosemary St., Suite 220 Chapel Hill NC 27516

(street address/p.o. box) (city) (state) (zip)

(9) Print your name: Kym Hunter, Southern Environmental Law Center, counsel for Sound Rivers, Clean Air Carolina, and Center for Biological Diversity

(10) Your signature: 

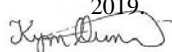
You must mail or deliver a **COPY** of this Petition to the State agency or board named on line (3) of this form. You should contact the agency or board to determine the name of the person to be served.

CERTIFICATE OF SERVICE

I certify that this Petition has been served on the State agency or board named below by depositing a copy of it with the United States Postal Service with sufficient postage affixed **OR** by delivering it to the named agency or board:

- (11) Bill Lane
(name of person served)
- (12) North Carolina Department of Environmental Quality – Division of Water Resources
(State agency or board listed on line 3)
- (13) 1601 Mail Service Center
(street address/p.o. box)
- Raleigh NC 27699-1641
(city) (state) (zip code)

(14) This the 22nd day of February, __

(15) 2019

(your signature)

When you have completed this form, you **MUST** mail or deliver the **ORIGINAL** to the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6700.

This box for OAH use only.

<p>Amount Paid \$ _____</p> <p><input type="checkbox"/> Cash – receipt number _____</p> <p><input type="checkbox"/> Money Order <input type="checkbox"/> Certified Check <input type="checkbox"/> Attorney Trust Account</p> <p>Check number _____</p>	<p><input type="checkbox"/> Indigent (must complete form HOI)</p> <p><input type="checkbox"/> Mandated federal cause of action</p> <p>Received by: _____</p>
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INSTRUCTIONS FOR FORM H-06
“PETITION FOR A CONTESTED CASE” AND “CERTIFICATE OF SERVICE”

FILL IN BLANKS:

Fill in your county of residence (1), print your name on line (2), and the name of the agency or board about which you are complaining on line (3). Be sure to briefly state the facts about your case. Enter the dollar amount in controversy, if applicable on line (4). Check all of the items that apply in section (5). Enter the date on line (6), your telephone number on line (7), your address on line (8), print your name on line (9), and **sign your name on line** (10).

CERTIFICATE OF SERVICE:

You must mail or deliver a copy of your completed petition to the agency or board named on line (3) and complete the “certificate of service” section on your petition, entering the name of the person to whom you mailed or delivered the petition on line (11). You should contact the agency or board to determine the name of the person to be served. Print the name of the state agency involved on line (12), the address of the agency or board on line (13), the date on line (14), and **sign your name on line** (15).

FILING FEE

Filing fees can be paid by either, cash, money order, certified check or checks drawn on attorney trust accounts. The fee must be paid at the time the petition is filed. Checks should be made payable to the Office of Administrative Hearings. If your case is involving a mandated federal cause of action there is no fee. The filing fee for Certificate of Need cases is \$125.00 as well as Environmental issues concerning Clean Water Act permitting, Clean Air Act permitting, Animal Waste Management System permitting, and permitting for water use within capacity use areas and any case when the amount in controversy is \$50,000.00 or more. All other case types shall pay \$20.00.

FILING YOUR PETITION WITH THE OFFICE OF ADMINISTRATIVE HEARINGS:

Your contested case will commence as soon as you file your completed original petition, properly signed and appropriate fee paid, with the Office of Administrative Hearings. Below are the mailing and physical addresses:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6700

Office of Administrative Hearings
1711 New Hope Church Road
Raleigh, NC 27609-6285

If you mail this form, the case commences when it is **received and filed** in this office.

You may file your petition by fax during normal business hours by faxing the petition to the Clerk's Office at (919) 431-3100.

You may file your petition by electronic mail by an attached file either in PDF format or a document that is compatible with or convertible to the most recent version of Word for Windows by sending the electronic transmission to oah.clerks@oah.nc.gov. Electronic mail without attached file shall not constitute a valid filing.