

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
21 EHR 03711

<p>Phillip Brittain Petitioner,</p> <p>v.</p> <p>North Carolina Department of Environmental Quality Respondent.</p>	<p>FINAL DECISION GRANTING SUMMARY JUDGMENT</p>
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THIS MATTER comes before the undersigned Administrative Law Judge upon consideration of Respondent's Motion for Summary Judgment filed with the Office of Administrative Hearings on March 11, 2022. On May 2, 2022, Petitioner filed a Response to the motion, and on May 6, 2022, Respondent filed a Reply. Having considered Respondent's Motion and Reply and Petitioner's Response, the Undersigned determined that there is no genuine issue as to any material fact and the Respondent is entitled to Summary Judgment as a matter of law.

It is, therefore, ORDERED, ADJUDGED AND DECREED that the Motion for Summary Judgment is granted in favor of Respondent.

NOTICE OF APPEAL

This is a Final Decision issued under the authority of N.C. Gen. Stat. § 150B-34.

Under the provisions of North Carolina General Statute § 150B-45, any party wishing to appeal the final decision of the Administrative Law Judge must file a Petition for Judicial Review in the Superior Court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, the county where the contested case which resulted in the final decision was filed. **The appealing party must file the petition within 30 days after being served with a written copy of the Administrative Law Judge's Final Decision.** In conformity with the Office of Administrative Hearings' rule, 26 N.C. Admin. Code 03.0102, and the Rules of Civil Procedure, N.C. General Statute 1A-1, Article 2, **this Final Decision was served on the parties as indicated by the Certificate of Service attached to this Final Decision.** N.C. Gen. Stat. § 150B-46 describes the contents of the Petition and requires service of the Petition on all parties. Under N.C. Gen. Stat. § 150B-47, the Office of Administrative Hearings is required to file the official record in the contested case with the Clerk of Superior Court within 30 days of receipt of the Petition for Judicial Review. Consequently, a

copy of the Petition for Judicial Review must be sent to the Office of Administrative Hearings at the time the appeal is initiated in order to ensure the timely filing of the record.

This the 9th day of May, 2022.



David F Sutton
Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service.

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This the 9th day of May, 2022.



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