

**PUBLIC INTERESTS AND PRIVATE RIGHTS IN ENVIRONMENTAL LAW:
THE *LUCAS* CASE**

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In 1988 the State of South Carolina enacted a law prohibiting development seaward of a 40-foot setback line behind the primary dune on a barrier island. David Lucas owned two undeveloped lots that fell within this controversial “dead zone.” By 1992 the State of South Carolina had bought Lucas’ plots of land and resold it for development. This development was seaward of the setback line. Between these two dates the matter was considered by the U.S. Supreme Court. This report is concerned with implications of the U.S. Supreme Court ruling and the reversal by the State of South Carolina that allowed development on two unstable lots.

Herein lies the contradiction that spurred this study. Although the Isle of Palms (IOP) is accreting overall, the northern sections of the island are periodically subjected to severe erosion due to off shore shoal movement and thus erosion. The sand supply for the IOP comes from barrier islands further north. These sediments get trapped in Dewees Inlet, the ebb tidal channel then further transports the sand to the terminal lobe, eventually forming an offshore shoal at the North end of IOP. Wave processes then, over time, move the shoal landward. Prior to shoal attachment to the mainland – severe erosion can develop as a result of strong longshore flowing in the channel between the shoal and beachfront. The shoal migration may be cyclic – reoccurring approximately every six to ten years. This means that certain lots will oscillate between the conditions of accretion and strong erosion.

The case, *Lucas v. South Carolina Coastal Council*, raises questions about public policy and private property rights, and suggests that these islands are poor places for the construction of permanent homes.

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