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Jan 27 2023

SC Court of Appeals

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**Michael S. Traynham**  
Special Counsel  
Admitted in SC, NC

January 27, 2023

The Honorable Jenny Abbott Kitchings  
Clerk, S.C. Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

Re: Friends of Gadsden Creek v. South Carolina Department of Health &  
Environmental Control and WestEdge Foundation, Inc.  
Appellate Case. No. 2023 - 000006

Dear Ms. Kitchings:

Austin

Charleston

Charlotte

**Columbia**

Greensboro

Greenville

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Myrtle Beach

Raleigh

We are writing in response to Appellant's first request for extension, received by Respondent WestEdge Foundation yesterday. While we do not object to this first extension request out of professional courtesy, we lodge this response to preemptively object to any further extension in this matter, as it involves exigent circumstances impacting health and safety which should be decided as promptly as practical by the Court.

As outlined in the trial court's order, this matter involves a state permit for a project to address compound and tidal flooding and contamination emanating from an uncapped landfill. It was uncontested at the trial that sampling data from within the landfill revealed high levels of lead and other contaminants, and that Appellant and its members regularly take members of the public, including young children, to the source of this contamination. It was also uncontested that sunny day (tidal) flooding has increased in frequency and intensity in recent years within the vicinity of the project area. Based on trial testimony and NOAA tide data, the tidal flooding at issue in this matter has already occurred to at least some degree on over 230 days since Appellant initiated this litigation delaying the subject project. City officials testified that both the flood conditions and the contamination exposure need to be addressed as soon as possible. Any undue delay in deciding this matter leaves residents of a low income community adjacent to the project site vulnerable to flood waters and contamination. Flood conditions are predicted to occur with increased frequency in 2023 and beyond.

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The Honorable Jenny Abbott Kitchings  
January 27, 2023  
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Respectfully, we would request the Court's grant of Appellant's first extension be the final extension of a deadline in this matter.

Very truly yours,

A handwritten signature in blue ink that reads "Michael Traynham". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael S. Traynham

Cc: Bradley D. Churdar, Esq.  
Sara V. Martinez, Esq.  
Bennett W. Smith, Esq.  
Benjamin D. Cunningham, Esq.  
Lauren M. Milton, Esq.