RECEIVED
Apr 20 2026
S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

IN THE ORIGINAL JURISDICTION

Appellate Case No. 2026-000032

SOUTH CAROLINA PUBLIC INTEREST FOUNDATION and JAMES WENINGER ..... Plaintiffs,

v.

HENRY DARGAN MCMASTER, in his official capacity as Governor of the State of South Carolina; MAJOR GENERAL ROBIN B. STILWELL, in his official capacity as Adjutant General of the South Carolina National Guard ..... Defendants.

AMICUS CURIAE BRIEF SUPPORTING PLAINTIFFS BY SOUTH CAROLINA COASTAL CONSERVATION LEAGUE, SIERRA CLUB, THE LEAGUE OF WOMEN VOTERS OF SOUTH CAROLINA, FRIENDS OF COASTAL SOUTH CAROLINA, CHARLESTON WATERKEEPER, SAVANNAH RIVERKEEPER, WINYAH RIVERS ALLIANCE, GULLAH/GEECHEE SEA ISLAND COALITION, CONGAREE RIVERKEEPER, COASTAL EXPEDITIONS, AND CAROLINA OCEAN ALLIANCE

Michael G. Corley, Esq. (S.C. Bar No. 76168)
Jessie A. White, Esq. (S.C. Bar No. 100832)
SOUTH CAROLINA ENVIRONMENTAL LAW PROJECT
Post Office Box 1380
Pawleys Island, SC 29585
(843) 527-0078
michael@scelp.org
jessie@scelp.org

Counsel for Amicus Curiae
South Carolina Coastal Conservation League, Sierra Club, The League of Women Voters Of South Carolina, Friends of Coastal South Carolina, Charleston Waterkeeper, Savannah Riverkeeper, Winyah Rivers Alliance, Gullah/Geechee Sea Island Coalition, Congaree Riverkeeper, Coastal Expeditions, and Carolina Ocean Alliance

TABLE OF CONTENTS

TABLE OF AUTHORITIES

INTRODUCTION

The path to principled and predictable standing doctrine in South Carolina environmental law cases has been, if not tortured, then just a shade lighter than that designation. Within South Carolina's Constitution are enshrined fundamental public rights relating to natural resources. The navigable waters of this state are reserved for public purpose and public use, and the citizen interest in wildlife, another public trust resource, is protected. See S.C. Const. art. XIV, § 4; S.C. Const. art. I, § 25. South Carolina jurisprudence similarly grants the public's interest in natural resources exceptional importance. See, e.g., Kiawah Dev. Partners, II v. S.C. Dep't of Health & Env't Control, 411 S.C. 16, 766 S.E.2d 707 (2014); McQueen v. S.C. Coastal Council, 354 S.C. 142, 580 S.E.2d 116 (2003). Yet, when a member of the public has attempted to use the legal system to vindicate these rights, consideration of conventional standing doctrine has often become overwrought and detached.

If a citizen jogs on a beach that is to be stripped of sand, how often must he jog and for how long, before the loss of that jogging route constitutes an injury-in-fact? This is not a hypothetical scenario but, rather, just one example of the type of inquiry on which conventional standing has turned in South Carolina environmental cases. Mind you, this Court has described tidelands like the beach in question as "a precious public resource held in trust for the people." Kiawah Dev. Partners, II, 411 S.C. at 22, 766 S.E.2d at 710. Yet, the public's ability to challenge grave harm to these "precious" public resources has often teetered on the edge of the most mundane injury-in-fact analyses, and, especially at the trial level, this balance has many times tilted toward exclusion from court.

The amici, along with the undersigned non-profit legal organization, have often found themselves at the mercy of unpredictable Article III standing analyses.[1] As a consequence, the amici and undersigned organization have committed untold years toward vindicating their standing rights through the appellate

[1] For their part, the amici in support of Defendants acknowledge that conventional standing is "amorphous" and "confusing." Brief of Amici Curiae, p. 4.

process, many times requiring a trip to this very Court. These judicial and litigant resources have been consumed simply to establish the basic right to bring a case seeking protection of public environmental resources. And, as has been the case on more than a rare occasion, those public resources may be destroyed while the basic right to challenge the pending destruction is being resolved. See, e.g., Town of Arcadia Lakes v. S.C. Dep't of Health & Env't Control, Case No. 2013-001521 (S.C. Sup. Ct. Order dated April 9, 2015) (this Court granted certiorari to review denial of standing and later dismissed that certiorari because the resource at issue had been destroyed.). Attached as Exhibit A.

In a domain where an individual judge's interpretation of how many jogging trips or how many wildlife viewings can form the basis of a cognizable standing injury, public importance standing serves as a necessary and predictable guardrail for safeguarding public environmental rights that are distinctively protected in South Carolina. At least for cases where harm to public natural resources is most egregious (that is, cases with "wide public importance") there exists a predictable path to satisfying standing that does not rely on a variable assessment of how many times one must fish in a creek before he may challenge that creek's destruction.

More broadly, a hard-earned and delicate balance has now taken shape in the field of environmental standing. Flawed standing decisions have become less frequent, and the public importance exception plays a critical role in preserving that equilibrium. Indeed, the amici intervene here because public importance standing is a uniquely necessary doctrine in the field of environmental and natural resources law in South Carolina. That is, public importance standing is a doctrinal linchpin necessary for the functioning of the unique mosaic that is our state's environmental and natural resources laws. Conversely, eliminating public importance standing would substantially weaken an already limited set of tools available to environmental litigants in this State. While the amici take no position on the merits of the case before this Court, they strongly oppose the arguments that have been presented for overruling public importance standing and submit this brief in opposition.

STATEMENT OF INTEREST

The amici have a substantial interest in this matter based on their longstanding involvement in the protection of South Carolina's public environmental resources. For many years, they have been represented by undersigned legal organization in litigation arising when the State's most vital natural resources have been placed at risk. Through that experience, amici have encountered the full spectrum of standing determinations, both favorable and adverse, and have seen firsthand the real-world consequences that flow from inconsistent and unpredictable application of traditional standing principles.

Without reliable access to the courts, when necessary, these organizations are unable to fulfill their core nonprofit missions of protecting and stewarding South Carolina's natural resources. Judicial review is not ancillary to that work. Rather, it is an essential tool, and without it, their ability to carry out their purposes is substantially impaired. The amici recognize that South Carolina's system of environmental protection depends in meaningful part on public participation and enforcement. That system, however, cannot function as intended unless access to the courts is administered in a fair, consistent, and predictable manner.

The South Carolina Coastal Conservation League (CCL) is a nonprofit membership organization headquartered in Charleston, and with offices in Beaufort, Conway, and Columbia. CCL is an advocacy organization dedicated to the protection of the natural resources and community quality of life throughout South Carolina's coastal plain.

Sierra Club is one of the largest, oldest, and most influential environmental nonprofit organizations in the United States. Founded in 1892 with over one million members and 64 local chapters across all 50 states, they work to protect wild places, educate and enlist humanity in protecting the quality of the natural environment, promote clean energy, and advocate for environmental justice through lobbying, legal action, and grassroots activism.

The League of Women Voters of South Carolina (LWVSC) is the state branch of a nonpartisan

civic organization founded in 1920 at the final convention of the National American Woman Suffrage Association. Originally conceived as a tool to help newly enfranchised women exercise their voting rights effectively, the organization has grown to include both men and women. LWVSC and its 15 local branches are very active in local and state advocacy on a wide range of issues and matters of public importance.

Friends of Coastal South Carolina (Friends) is a nonprofit organization dedicated to preserving the ecosystems and wildlife of the South Carolina coast for future generations. Based in Awendaw, they focus on environmental education for youth, citizen stewardship, and volunteer advocacy to protect our natural resources and support national wildlife refuges and forests.

Charleston Waterkeeper is a nonprofit organization that works to protect, restore, and defend Charleston's waterways, including the Ashley and Cooper River Basin. They advocate for clean, swimmable, and fishable water for the public and nature through data-driven advocacy, community science, and pollution monitoring.

Savannah Riverkeeper is a nonprofit organization dedicated to protecting and restoring the 400-mile Savannah River basin—from its headwaters to the coast—ensuring it remains fishable, swimmable, and drinkable. Based in Augusta, with offices in South Carolina and Georgia, they advocate against pollution, manage and conduct cleanup programs, and monitor the watershed to protect public health and the environment.

The Winyah Rivers Alliance is a nonprofit coalition of Riverkeepers working to protect and restore the rivers, wetlands, and communities of the Winyah Bay watershed across South Carolina and North Carolina. Through scientific research, education, and community engagement, the Alliance is dedicated to ensuring clean water, healthy ecosystems, and the long-term sustainability of the region's vital waterways.

The Gullah/Geechee Sea Island Coalition is an advocacy organization established in 1996, founded by Marquetta L. Goodwine (Queen Quet), and headquartered on St. Helena Island in Beaufort County,

South Carolina. Their mission is to advocate for the rights of all Gullah/Geechee people around the world; to promote, preserve, and celebrate the Gullah/Geechee history, heritage, culture, and language; to work towards sea island reacquisition and maintenance; and to protect its community through collective efforts, which will provide a healthy environment, care for the well-being of each person, and economic empowerment.

Congaree Riverkeeper is a non-profit watchdog organization dedicated to protecting, preserving, and restoring the Broad, Lower Saluda, and Congaree Rivers in the South Carolina Midlands. They monitor water quality, conduct cleanups, hold polluters accountable, and advocate for science-based water policies.

Coastal Expeditions is a premier Lowcountry eco-tour company based in South Carolina, operating for over 30 years with locations in Charleston and Beaufort. They offer naturalist-led kayak tours, boat excursions, and related experiences to educate members of the public and emphasize the importance of wildlife viewing, history, and conservation.

The Carolina Ocean Alliance is a nonprofit based in Charleston, South Carolina, grounded in community-driven solutions, civic ecology, and the transformative power each of us has to use our unique gifts and passions to be the change we want to see in the world.

Finally, while the South Carolina Environmental Law Project (SCELP) serves as counsel rather than amicus here, its longstanding engagement with issues of environmental standing before South Carolina's courts is worth nothing. A Westlaw search reveals thirteen state appellate opinions addressing standing in SCELP cases. Since the organization's founding in 1987, SCELP has observed, participated in, and been subject to the fits and starts in the evolution of environmental standing, with hard-earned progress driven largely by the opinions of this Court. As undersigned wrote in one of those previous cases, where denial of standing was reversed on appeal:

> By now, it has become a reflexive default on the part of those defending environmental-based claims in South Carolina to lean heavily upon the standing doctrine,

> regardless of the circumstances at play. And, to be sure, the propensity of our state's trial-level courts to become entangled by such arguments–especially in complex or novel environmental cases–counsels in favor of that approach. However, if our Supreme Court has conveyed one message in its environmental jurisprudence, especially in recent years, it is that the overreaching of lower courts in relation to what should be a basic preliminary inquiry must cease.

As noted in this excerpt, this Court has achieved meaningful progress in shaping a cohesive and predictable framework for environmental standing, with public importance serving an essential function. SCELP, along with the amici, maintain a strong interest in seeing that this progress is not lost.

ARGUMENT

I. Public Importance Standing Serves a Critical Function.

As environmental organizations and practitioners, amici's perspective is shaped by their experience with the application of standing doctrine in that field, which has been, in a word, uneven. Conventional standing is an uneasy fit in the environmental context, as standing doctrine is fundamentally oriented around human injury, while environmental litigation centers on harm to public resources and ecological systems. See Jan G. Laitos, Standing and Environmental Harm: The Double Paradox, 31 Va. Envtl. L.J. 55, 59 (2013) ("Thus, there is a fundamental anomaly in Article III judge-made standing doctrine, which is being reflected throughout the lower federal courts whenever they face lawsuits alleging harms to nature or living things."). In other words, conventional standing creates a mismatch between the harms environmental law seeks to remedy and the injuries that must be established to present such litigation. In short, a human-centered doctrine is placed in direct tension with resource-centered claims.

This mismatch forces environmental plaintiffs to (often, artificially) "translate" ecological harm into individualized human terms to satisfy standing. See David N. Cassuto, The Law of Words: Standing, Environment, and Other Contested Terms, 28 Harv. Envtl. L. Rev. 79, 82 (2004) (examining "the convoluted result for standing doctrine of the distinction between injury to individuals and harm to environment."). In doing so, the court's focus is necessarily pulled away from the underlying

environmental injury and toward tangential personal impacts. For courts engaging in this "translated" analysis, the line between generalized environmental harm and individualized injury is often difficult to draw and conceptually unclear. See Id. (describing how this tension "has created a jurisprudence that is confused, confusing, and potentially detrimental to the national trust."). Courts can easily lose their footing in navigating this analytical tension.

Examples drawn from the undersigned organization's litigation history are, regrettably, commonplace. See, e.g., City of Folly Beach v. State, No. 2020-000937, 2023 WL 4925968, at *2 (S.C. Ct. App. Aug. 2, 2023) (reversing trial court's dismissal for lack of standing and recognizing constitutional standing in a beach renourishment challenge.); Pres. Soc'y of Charleston v. S.C. Dep't of Health & Env't Control, 430 S.C. 200, 215, 845 S.E.2d 481, 489 (2020) (reversing the ALC's and Court of Appeals' dismissal on standing grounds and noting the lower courts' conflation of environmental impact with injury in fact.); Smiley v. S.C. Dep't of Health & Env't Control, 374 S.C. 326, 333, 649 S.E.2d 31, 35 (2007) (reversing three adverse standing rulings from lower forums, holding that plaintiffs had constitutional standing, and citing the Court of Appeals' conflation of the standing inquiry with the merits of the case: "We vacate, in its entirety, this speculative ruling on the merits of Smiley's claims, which are not germane to the standing issue.").

While Defendants sound the alarm over alleged inconsistency and unpredictability in the application of the public importance doctrine, conventional standing cases like these have long sown confusion and uncertainty for amici and undersigned. Indeed, SCELP's organizational memory is long enough to recall when, against a backdrop of unsettled environmental standing jurisprudence, this Court issued the aforementioned Smiley decision, which was viewed as a watershed moment. This Court rejected a variety of granular critiques of Mr. Smileys recreational interest (that it was too small, that it was temporary, that it was avoidable) and recentered the original purpose of standing as a screen for genuine disputes. See id. Finally, it seemed that the need to dissect the contours of a genuine interest in

an environmental resource in order to establish standing had been resolved. But, alas, the cases cited above (and their respective decision dates) make clear that it had not. New and unsettled requirements continue to be introduced into conventional environmental standing doctrine, despite this Court's best efforts. See e.g. Town of Arcadia Lakes v. S.C. Dep't of Health & Env't Control, 404 S.C. 515, 531, 745 S.E.2d 385, 394 (Ct. App. 2013) (seemingly introducing property ownership as a factor in assessment of environmental injury-in-fact: "[W]hen such interests involve property that is privately owned by a party other than the plaintiff, the presence of an injury in fact cannot be assumed."). See also, Bradford W. Wyche, Town of Arcadia Lakes v. Dhec: A New Ownership Requirement for Standing in South Carolina?, 12 Charleston L. Rev. 55, 56 (2017).

Defendants fault public importance standing for "resist[ing] a formulaic approach," yet even now environmental practitioners lack certainty as to what combination of aesthetic and recreational interests in an environmental resource will suffice for conventional standing. It may be that a measure of uncertainty is inherent in the standing inquiry, no matter how the analysis is structured, given that it will always turn on application of flexible concepts. Either way, amici's experience makes clear that any such uncertainty is no more pronounced—and the governing principles no more difficult to discern—in public importance standing than in conventional standing analysis.

On the contrary, in the uncertain terrain of mismatched conventional standing, the public importance doctrine functions as a vital safety valve for environmental practitioners. In the environmental context, conventional standing doctrine is inherently unreliable and may fail, sometimes at the very moment when significant harm to public resources is on the line. The public importance doctrine ensures that, even then, the public retains a voice in court. In this respect, South Carolina's approach is superior to the federal model, as the public importance exception provides an essential safeguard when the State's most significant public resources are at risk.

Consider the case of Captain Sams Spit, a pristine and sensitive 170-acre barrier island spit on the

southern end of Kiawah Island. In Kiawah Dev. Partners, II v. S.C. Dep't of Health & Env't Control, 411 S.C. 16, 766 S.E.2d 707 (2014), this Court considered the challenge—brought by an amicus and litigated by undersigned organization—to a developer's proposal to cover up the Spit's beach with an erosion control structure along an incredibly 2,783 foot stretch. As the Court acknowledged, the resource at stake was unparalleled:

> Captain Sam's Spit and the public tidelands along its margins are of great importance to the people of South Carolina. The tidelands present a bounty of benefits to the people ranging from environmental to recreational. Unlike much of our State's coastline which is now armored and unnatural, the spit remains untouched by human alteration. The area, particularly the pristine sandy beach, is undoubtedly one of this State's natural treasures.

Id. at 44, 766 S.E.2d at 723. And, as the Court repeatedly emphasized, the natural resources to be lost were quintessentially public. See, e.g. Id. at 29, 766 S.E.2d 715 ("we need acknowledge that the basic premise undergirding our analysis must be the public trust doctrine which provides that those lands below the high water line are owned by the State and held in trust for the benefit of the public"; "the public's interest must be the lodestar which guides our legal analysis in regards to the State's tidelands.").

The question follows, then: should the public's ability to have a voice in court, when the destruction of a public resource of this magnitude is at stake, depend on whether an individual who has taken enough birdwatching trips to the Spit, or picnicked on its beaches with adequate regularity, is willing to step forward as a litigant? The public importance doctrine answers that it should not, nor should we permit this type of resource to be destroyed while litigants appeal an individual judge's interpretation of how much birdwatching or picnicking is adequate. In the view of these amici and of undersigned counsel, public importance standing in cases of this magnitude is best example, in the environmental context, of a coherent and principled doctrine of standing. It is environmental standing at its most sensible and defensible, not the other way around.

Conversely, eliminating public importance standing would leave the State's most valuable natural resources more vulnerable, erode the force of public environmental rights enshrined in the State's

Constitution, and further entrench a doctrine (conventional environmental standing) that is widely regarded as fundamentally flawed. Without question, in the context in which all of the parties to this brief operate, eliminating the public importance exception means going backwards.

II. Public Importance Standing is Exceedingly Rare.

To say that the doctrine is vital does not mean that it is common. To continue with the previous analogy, at least in the environmental context, public importance standing is akin to a safety valve triggered in the case of system malfunction. Central to the doctrine's essential function is the rarity with which courts find it applicable, a point borne out by this State's environmental jurisprudence. Given the public nature of most of our natural resources, including air, water and wildlife, one would expect for public importance standing to be a relatively common feature of environmental litigation. As it stands, just the opposite is true.

The Defendants in this case and their amici in support have raised the specter of the public importance exception swallowing the conventional rule of standing and of pervasive use (or misuse) of this niche standing doctrine.[2] Frankly, from a self-interested vantage point, amici and undersigned counsel might prefer that this supposed threat was more real than rhetorical. The reality is, though, that in the field of environmental and natural resources law, where significant public interest is a common and even expected feature, instances of public importance standing are quite rare.

While the parties to this brief are loathe to admit, the predominant rejection (or non-exercise) of public interest standing in the environmental context is strong evidence of the doctrine's heft and of the courts' appropriately limited application. Indeed, although the parties hereto have participated in dozens of environmental standing cases over several decades, favorable applications of the doctrine within that record are few and far between. To wit, Defendants and their amici identify only two environmental cases

[2] Notably, in doing so, they lament the judiciary's 30-year defense of public importance standing while citing only eight examples. Brief of Amici Curiae, p. 3.

addressing public importance standing; each involved at least one party to this brief, and in each instance, the doctrine was rejected.

Perhaps most illustrative is Carnival Corp. v. Historic Ansonborough Neighborhood Ass'n, a case brought by the Coastal Conservation League. The case was first given the imprimatur of public importance in that it was taken up by this Court in its original jurisdiction. See 407 S.C. 67, 71, 753 S.E.2d 846, 848 (2014). The subject matter of the case—whether zoning ordinances are preempted by federal and state law—was suggestive of a recurring scenario on which future guidance would be valuable. Nevertheless, this Court rejected public importance standing and, in plain terms, provided guidance on the doctrine that is easily translatable to future cases. That is: public importance standing is typically associated with challenges to the "constitutionality or legality of government action"; and it should not be applied if the claims "could be brought by other parties who can show the required injury." Id. at 81; 753 S.E.2d at 853.

The Defendants and supporting amici have argued in grave terms that courts and lawyers are "left guessing when and how the public importance exception might apply." Brief of Amici Curiae, p. 10. As parties and practitioners who have participated in cases like Carnival Corp., this alarmist sentiment is impossible to square, as is the Defendants' treatment of conventional standing doctrine as if it is somehow more readily ascertainable than that of public importance. Regular parties and practitioners in the field of environmental law understand the doctrinal limitations of public importance, which shows in how sparingly the doctrine has been invoked.

Another of the environmental cases cited by Defendants and supporting amici is Jowers v. S.C. Dep't of Health & Env't Control, in which SCELP, on behalf of several property owners, brought constitutional challenges to the manner in which our state environmental agency regulates and approves surface water withdrawals. See, 423 S.C. 343, 815 S.E.2d 446 (2018). As the basis for public importance standing, SCELP argued that the system for allocating surface water, a public trust resource, effectively privatizes that resource, to the great detriment of the citizenry Id. at 365, 815 S.E.2d at 458. Contrary to

the opposing amici's alarmist claim that public importance standing "effectively deputizes everyone as a private attorney general," the plaintiffs' entirely plausible invocation of the exception was rejected. Id. at 366, 815 S.E.2d at 458. And, from Jowers, another principle of application emerged: public importance standing will not be found where other adequate means exist within the judicial system to vindicate the right at issue. See id. at 360, 365, 815 S.E.2d at 455, 458. This limitation is not theoretical, and Defendants' core lament is misplaced. Jowers makes clear that the public importance exception is not a wholesale mechanism for challenging government action; if it were, the case assuredly would have been decided on the merits.[3]

Amici's direct experience in the cases in which public importance standing has been rejected underscores the doctrine's appropriately limited reach. These were not gratuitous or speculative invocations, but rather carefully considered efforts to present claims of genuine public consequence. Yet, this Court declined to find standing and, in doing so, articulated circumscribed principles that have given the doctrine clearer shape and boundaries. That pattern reflects not a doctrine prone to overuse, as Defendants suggest, but one applied with restraint and discipline, with parallels to this Court's development of conventional standing doctrine that are virtually exact.

Public importance standing thus occupies a narrow space in this State's jurisprudence. In the experience of these litigants and practitioners, it is rarely satisfied and deliberately reserved for those exceptional cases in which its application is both justified and necessary. The doctrine's limited scope,

[3] The final environmental standing case cited by the Defendants is Preservation Society of Charleston, which is ironically a case where both the trial court and Court of Appeals got their conventional standing analyses wrong, requiring correction from this Court. See 430 S.C. at 219, 845 S.E.2d at 491. The case, which came after both Carnival Corp. and Jowers, is also a useful example of how public importance standing has evolved as a principled doctrine in the environmental field. Given that both lower courts had rejected conventional standing, and that a level of public importance was at play, the temptation to advance public importance standing was present. But, petitioners "[did] not assert standing via the public importance exception." 430 S.C. at 210, 845 S.E.2d at 486. Practitioners have assimilated the lessons of this Court's public importance jurisprudence, especially including its limitations, despite what the Defendants assert to the contrary.

though, does not detract from its vital importance.

III. Explicit Recognition of Public Importance Standing is Preferable to Fictional Pretext.

Finally, although Defendants and their supporting amici cast the public importance exception as a peculiarity of South Carolina's standing doctrine, the distinction they draw is more one of form than of substance. And on that point, South Carolina's approach is plainly the stronger one.

While standing doctrine is presented as a neutral threshold requirement, courts, commentators and lawyers have long recognized that the doctrine often does far more than screen for genuine disputes. Indeed, many scholars have observed that standing analysis frequently does not remain confined to its explicit elements. Rather, consideration of standing often tends to drift into an implicit judgment about the desirability of adjudicating the underlying dispute. See, e.g., Evan Tsen Lee & Josephine Mason Ellis, The Standing Doctrine's Dirty Little Secret, 107 Nw. U. L. Rev. 169 (2012) ("Simply put, we think the most plausible way to reconcile the Court's inconsistent approaches to standing is to admit that what constitutes a 'case' or 'controversy' depends on the context….").

Regular practitioners of standing doctrine, particularly in the environmental context, understand this dynamic implicitly. Cases that are complex, confusing, or reliant on unfavorable facts often tend to receive more exacting scrutiny at the standing stage. Conversely, and particularly relevant here, when a case is compelling or presents issues of substantial importance—whether in its legal question or its factual or social implications—courts can appear more willing to find standing, often by construing injury-in-fact more generously. Indeed, the amici and undersigned surely cannot be alone in having experienced that the application of standing doctrine tends to track the perceived desirability of the case itself. See Robert J. Pushaw, Jr., The Court Continues to Confuse Standing: The Pitfalls of Faux Article III "Originalism", 31 Geo. Mason L. Rev. 893 (2024) (noting that the elements of conventional standing are "so malleable that they are routinely manipulated depending upon whether a judge wishes to reach the merits,").

Against that backdrop, South Carolina's explicit recognition of a public importance exception is a

transparent and preferable alternative to the implicit manipulation that so often appears in conventional standing analyses. Rather than maintaining the formal pretense that standing is always found (or denied) based solely on injury, causation, and redressability, the public importance doctrine acknowledges what standing jurisprudence often obscures: that courts sometimes hear cases because of their significance to the legal system or the public at large. In that sense, the public importance exception does not represent a departure from the tenets of standing, as the Defendants have suggested, so much as a clarification and acknowledgment of them.

Where courts in other jurisdictions may stretch or contract standing's elements to reach (or avoid) important questions, South Carolina's approach makes that judgment explicit. It replaces a legal fiction (that standing doctrine always operates as a purely objective threshold) with a transparent recognition that, in certain circumstances, the importance of the issue itself justifies judicial review. This transparency has significant advantages, including in that it promotes sound and consistent application of the conventional standing doctrine. By expressly recognizing public importance standing, this Court has reduced the pressure to distort conventional standing's core elements to reach a desired result and has minimized the intrusion of substantive judgments into what is supposed to be a procedural inquiry.

In sum, by expressly recognizing the public importance exception, South Carolina has developed a standing doctrine that is both more principled and more transparent, and it would be a significant mistake to upend that balance.

Respectfully submitted,

/s/Michael G.Corley
Michael G. Corley, Esq. (S.C. Bar No. 76168)
Jessie A White, Esq. (S.C. Bar No. 100832)
SOUTH CAROLINA ENVIRONMENTAL LAW PROJECT
Post Office Box 1380
Pawleys Island, SC 29585
(843) 527-0078
michael@scelp.org
jessie@scelp.or

April 20, 2026
Pawleys Island, SC 29585