

STATE OF SOUTH CAROLINA  
IN THE  
COURT OF APPEALS

RECEIVED

AUG 13 2014

SC Court of Appeals

---

Appeal from the Administrative Law Court  
Honorable Ralph King Anderson, III, Administrative Law Judge  
Case No. 04-ALC-07-0126-CC

---

13205

Sierra Club,

Appellant,

v.

South Carolina Department of Health and  
Environmental Control and Chem-Nuclear  
Systems, LLC,

Respondents.

---

**MOTION FOR IMPOSITION OF STAY  
PENDING FINAL RESOLUTION OF APPEALS PROCESS  
OF THE  
RESPONDENT, CHEM-NUCLEAR SYSTEMS, LLC**

---

Stephen P. Groves, Sr., Esquire  
Mary D. Shahid, Esquire  
Sara S. Rogers, Esquire  
*NEXSEN PRUET, LLC*  
205 King Street, Suite 400  
Charleston, South Carolina 29401  
Telephone: 843.720.1725  
Telecopier: 843.414.8206

*Attorneys for the Respondent,  
Chem-Nuclear Systems, LLC*

TO: THE HONORABLE JUDGES OF THE SOUTH CAROLINA COURT OF APPEALS:

COMES NOW the Respondent, Chem-Nuclear Systems, LLC (“Chem-Nuclear”), pursuant to Rule 240(c) of the South Carolina Appellate Court Rules, and respectfully requests this Court of Appeals to issue an order imposing a stay upon this Court of Appeals’ directive to both Chem-Nuclear and to the Respondent, South Carolina Department of Health and Environmental Control (“DHEC”), “to submit a written plan for compliance to the [South Carolina Administrative Law Court] within ninety days of [this Court of Appeals’ 30 July 2014,] opinion.”<sup>1</sup>

## I. STATEMENT OF THE CASE<sup>2</sup>

In its Final Order and Decision issued 13 October 2005 (the “2005 ALC Order”), reviewed by this Court of Appeals,<sup>3</sup> the ALC approved renewal of Chem-Nuclear’s license for operation of the low-level radioactive waste disposal facility in Barnwell, South Carolina. The ALC, however, ordered Chem-Nuclear to conduct an investigative study and submit the results to DHEC. This study included evaluation of “the scientific and economic feasibility of employing or implementing designs and operational procedures at the Barnwell Site that will (1) shelter the

---

<sup>1</sup> See Sierra Club v. SCDHEC and Chem-Nuclear Systems, LLC, \_\_\_ S.C. \_\_\_, \_\_\_ S.E.2d \_\_\_ (Ct.App. 2014) (2014 WL 3734366, filed 30 July 2014) (“Chem-Nuclear II”).

<sup>2</sup> Chem-Nuclear previously adopted the Statement of the Case submitted by the Appellant, Sierra Club. Chem-Nuclear hereby supplements the Statement of the Case herein.

<sup>3</sup> Sierra Club v. SCDHEC and Chem-Nuclear Systems, LLC, 387 S.C. 424, 693 S.E.2d 13 (Ct.App. 2010), *rehearing denied* (3 May 2010), *certiorari denied* (21 July 2011) (“Chem-Nuclear I”).

disposal trenches from rainfall and prevent rainfall from entering the trenches, (2) provide temporary dry storage facilities for the storage of wastes received during wet conditions, and (3) provide for sealing and grouting the concrete disposal vaults to prevent the intrusion of water to the maximum extent feasible.”<sup>4</sup> Chem-Nuclear conducted the required study and forwarded the report (the “Feasibility Report”)<sup>5</sup> to DHEC on 11 April 2006. Chem-Nuclear sought to supplement the Record on Appeal currently before this Court of Appeals with the Feasibility Report, but the Sierra Club strenuously objected to any such appellate record supplementation and this Court denied Chem-Nuclear’s Motion to Supplement by Order of the Honorable Jasper Cureton, May 28, 2008.

Unfortunately, this Court of Appeals was then forced to consider this case and thereafter issue the Chem-Nuclear I decision without benefit of the information and documentation contained in the Feasibility Report. This Court of Appeals affirmed in part, and remanded in part the 2005 ALC Order back to the ALC.<sup>6</sup> On remand this Court of Appeals “instructed the ALC to apply the factual findings from its 2005 Order in determining. . . whether Chem Nuclear [wa]s in compliance with DHEC Regulation 61-63, Part VII, Sections 7.10.5 through 7.10.10, 7.11, and

---

<sup>4</sup> Sierra Club v. SCDHEC and Chem-Nuclear Systems, LLC, 2005 WL 2997193 (S. C. Admin. Law. Judge.Div., filed 13 October 2005). (R.pp.36-66).

<sup>5</sup> The report was entitled Evaluation of the Scientific and Economic Feasibility for Implementing New Designs and Operational Procedures at the Barnwell Site as Directed by the South Carolina Administrative Law Court Order Dated October 13, 2005.

<sup>6</sup> Chem-Nuclear I, 387 S.C. 424, 693 S.E. 2d 13.

7.23.6.” (R.p.2).<sup>7</sup> These instructions foreclosed any opportunity by Chem-Nuclear to present the Feasibility Report.

The ALC, on the remand, concluded “[the Sierra Club] must demonstrate, by a preponderance of the evidence, that renewal is not authorized based on the ALC’s factual findings in the 2005 [ALC Order] as applied to the sections of R. 61-63 discussed above.” (R.p.22). The ALC concluded “[the Sierra Club] failed to carry that burden, [determining] that the factual findings in the 2005 Decision, when applied to 24A *S. C. Code Ann. Reg.* 61-63, [§§] 7.10.5-7.10.10, 7.11, and 7.23.6, demonstrate that the Barnwell Facility is compliant with these regulations and that renewal of License No. 097 was proper.” (R.p.22). The ALC reached this conclusion on remand without the benefit of the study and the Report, since review was foreclosed by this Court’s remand instructions.

The Sierra Club appealed and this Court of Appeals issued its decision in *Chem-Nuclear II* on 30 July 2014, affirming in part and reversing in part, the ALC’s 20 July 2012, order on the initial remand. Chem-Nuclear now submits its **Motion for Imposition of Stay**, as well as its contemporaneously filed **Petition for Rehearing**.<sup>8</sup>

## II. **STATEMENT OF THE FACTS**

Chem-Nuclear operates a low-level radioactive waste (“LLRW”) disposal facility in Barnwell County, South Carolina (the “Barnwell Facility”) on property

---

<sup>7</sup> *Chem-Nuclear I*, 387 S.C. 424, 439, 693 S.E. 2d 13, 20-21.

<sup>8</sup> Chem-Nuclear is informed and believes that DHEC will be filing similar motions/petitions with this Court of Appeals, although separate from those filed by Chem-Nuclear.

generally contiguous to the Savannah River Site. (R.p.38, para. 1).<sup>9</sup> Chem-Nuclear began disposal operations at the Barnwell Facility in 1971 pursuant to License No. 097 (R.p.38, para. 1) and has been the sole operator of the Barnwell Facility since that year. (R.p.38, paras. 1, 2). DHEC has previously renewed License No. 097 seven times. (R.p.38, para. 1; R.p.42, para. 18). Including DHEC's seven renewals, License No. 097 has been amended some 57 times. (R.p.38, para. 1; R.p.42, para. 18). The most recent license renewal, constituting the then 49<sup>th</sup> amendment<sup>10</sup>, is the subject of the underlying contested case (R.p.42, para. 18) and the present appeal.

In 2000, almost 30 years after Chem-Nuclear commenced disposal operations at the Barnwell Facility, the South Carolina Legislature enacted the Atlantic Interstate Low-Level Radioactive Waste Compact Implementation Act (the "Compact Act")<sup>11</sup> which designated the Barnwell Facility as the Atlantic Compact's

---

<sup>9</sup> Beginning in the early 1950s, the Savannah River Site historically produced the basic material used in the fabrication of nuclear weapons. See [www.srs.gov/general/about/history1.htm](http://www.srs.gov/general/about/history1.htm).

<sup>10</sup> There have been subsequent amendments to the renewed license since DHEC's authorization of Amendment 49 on March 15, 2004. These subsequent amendments are not reflected in the Record on Appeal. Amendment 50 addresses implementation of increased controls of radioactive materials of concern. Amendment 51 imposes additional security requirements for fingerprinting and background checks of supervisors at the disposal facility. Amendment 52 relates to inventory reporting requirements for nationally tracked sealed sources. Amendments Nos. 53-55 and 57 updated the license users. Amendment No. 56 was for a training procedure change. As previously noted, there have been 57 total amendments as of the date of this motion.

<sup>11</sup> See S.C. Code Ann. §§ 48-46-10, et seq. (Thomson Reuters West 2010). Through this legislation, South Carolina joined the Atlantic Low-Level Radioactive Waste Compact (the "Atlantic Compact") along with Connecticut and New Jersey. S.C. Code Ann. §§ 48-46-30(3) (Thomson Reuters West 2010); S.C. Code Ann. §§ 48-46-60(5)(B) (Thomson Reuters West 2010).

LLRW regional waste disposal facility.<sup>12</sup> The Compact Act established declining limits on LLRW volumes which could be disposed of at the Barnwell Facility until Fiscal Year 2008. <sup>13</sup> Following expiration of the declining limits, the disposal facility could only receive waste from the three Atlantic Compact States. Consequently, since Fiscal Year 2008-2009, the Barnwell Facility has received only approximately anywhere between a high of 35,000 cubic feet per year of LLRW and a low of 8,500 cubic feet, from the member states. (R.p.38, para. 3 – R.p.39, para. 1).

Tritium,<sup>14</sup> a radioactive isotope of hydrogen, undisputedly moves through the groundwater at the Barnwell Facility. (R.pp.43-44, paras.24-35).<sup>15</sup> Since 1974, using an extensive system of groundwater monitoring wells, Chem-Nuclear and DHEC have been able to map a fairly exact tritium dispersal “plume”. (R.pp.43-44, para. 29; R.p.50, para. 65). Groundwater becomes surface water in Mary’s Branch Creek, beyond the boundaries of the property owned by the State of South Carolina and leased by Chem-Nuclear, but, nevertheless, within the confines of property adjoining the disposal facility and owned by Chem-Nuclear. (R.p.44, para. 32). The first point in Mary’s Branch Creek where a hypothetical member of the general

---

**12** See S.C. Code Ann. §§ 48-46-40 (Thomson Reuters West 2010).

**13** S.C. Code Ann. § 48-46-40(A)(6) (Thomson Reuters West 2010). Commencing in Fiscal Year 2008-2009, the Compact Act limited the Barnwell Facility to the acceptance of disposal of in-region LLRW only. S.C. Code Ann. § 48-46-40(A)(6)(a) (Thomson Reuters West 2010). This has resulted in a substantial reduction of waste volumes entering the facility.

**14** Tritium has a half-life of 12.3 years and decays to approximately one-fourth of its original quantity of radiation in 24.6 years. (R.p.43, para. 27).

**15** Tritium admittedly migrates with rainwater and groundwater (R.p.43, para. 24) and was first discovered in the Barnwell Facility’s trenches in 1974. (R.pp.43-44, para. 29; R.p.50, para. 65).

public might receive a dose of radiation is the compliance point for purposes of DHEC's monitoring. (R.p.44, para. 32).**16**

The highest concentration of tritium detected in Mary's Branch Creek, from a sample taken in July 2001, resulted in a hypothetical annual dose of 5.7 *mrem*, a mere 22.8% of the allowable federal and state regulatory limits. (R.p.45, paras. 39, 41). Sampling data disclosed at the ALC's 2005 hearing provided evidence that there had been a declining trend in the tritium concentrations at the compliance point. (R.p.45, paras. 39, 41; R.pp.47-48, para. 52).**17** Moreover, the "tritium plume" originated as a consequence of early disposal practices. (R.pp.43-44, para. 29).**18** The use of engineered barriers,**19** groundwater travel time, and decay have

---

**16** The compliance point approved by DHEC is an appropriate point of compliance in that it provides for measuring compliance consistent with Section 7.18 of the regulation. (R.pp.44-45, paras. 32, 37-38). The evidence demonstrated that tritium has a travel time through groundwater of 30 years between the trenches and Mary's Branch Creek. (R.p.47, para. 49). The regulatory limit for exposure to a member of the public to radioactive materials is the equivalent of an annual dose of 25 millirems ("mrem") to the whole body. (R.p.44, para. 33). *See generally* 24A S.C. Code Ann. Regs. 61-63, § 7.18 (Thomson Reuters West 2010). As noted, the exposure levels involved herein are just above one-fifth of the allowable level. Moreover, the regulatory limit dose is based on a hypothetical member of the public drinking two (2) liters of the allegedly "contaminated" water per day every day for a year.

**17** Furthermore, the compliance point (*i.e.*; point of Tritium release) is located on real property controlled by Chem-Nuclear. (R.p.44, para. 32). Access to the Mary's Branch Creek at the point of release is restricted as the area is fenced and, in addition, is heavily vegetated. (R.p.44, para. 32; R.p.45, para. 42). There are no known consumers and/or users of Mary's Branch Creek in and around the compliance point. (R.pp.45-46, para. 43). The particular property, including Mary's Branch Creek, is the subject of a Restrictive Covenant prohibiting the use of the groundwater and surface water as a drinking water source. (R.p.46, para. 44). Moreover, there are no known drinking water wells down gradient of the Barnwell Facility. (R.pp.45-46, paras. 42-45).

**18** A considerable amount of waste disposed during the early years of operations of the Barnwell Facility was packaged in unreliable containment and waste forms like paper or cardboard. (R.pp.43-44, para. 29).

ensured that tritium concentrations at the compliance point remain, as noted, at a level of some 22.8% or just over one-fifth of the federal and state allowable limits. (R.p.46, para. 46).

Waste is transported to the Barnwell Facility in casks, or containers, such as high-integrity polyethylene disposal containers (R.pp.56-57, para. 107) which are placed in rectangular and cylindrical reinforced concrete vaults stacked at least two high on the trench floor. (R.p.53, para. 82-84). Voids between vaults are backfilled for stability within the trench and the vaults are covered with a clay cap. (R.p.53, para. 84). Once trenches are filled they are covered with an enhanced cap consisting of clay overlain by polyethylene and bentonite materials, sand, and topsoil to allow for vegetation growth. (R.pp.53-54, para. 85).<sup>20</sup>

The trend in groundwater concentrations of tritium near trenches constructed with engineered barriers, attributed to better containment of waste and work controls processes, demonstrates that Chem-Nuclear has successfully minimized the contact between waste and rain water. (R.pp.56-57, para. 107). Moreover, Chem-Nuclear has implemented a surface water management plan to manage precipitation collected in the trenches. (R.pp.56-58, paras. 105-113). Water is

---

**19** In 1995, Part VII of Regulation 61-63 was amended to require engineered barriers for all waste disposed at the Barnwell Facility. (R.p.40, para. 9). The primary engineered barriers used at the Barnwell Facility since 1995 are concrete vaults and enhanced capping of trenches. (R.p.42, para. 20; R.p.51, para. 72). These amendments resulted in South Carolina's regulations governing LLRW becoming more stringent than the NRC's regulations.

**20** The concrete vaults are not sealed against water intrusion and the vault floors contain holes to allow water to drain from the vaults. (R.p.46, para. 47; R.p.56, para. 101). The bottoms of the trenches are lined with sandy clay that is not compacted nor designed to be impermeable. (R.pp.53-56, paras. 81-103). Rather, it is designed to allow water to migrate from the bottom of the trench. (R.pp.53-56, paras. 81-103).

sampled, analyzed, and pumped, to prevent contacting vaults, into adjacent trenches or a lined pond. (R.p.58, para. 117).

The Sierra Club asserted, and this Court of Appeals essentially agreed, that the law<sup>21</sup> requiring Chem-Nuclear to minimize contact between the waste and rain water actually means that Chem-Nuclear must prevent any and all contact between waste and rain water (i.e.; there can be no contact whatsoever). Rain undisputedly enters the trenches at the Barnwell Facility which are still active and open (i.e.; still receiving material, in the process of being covered over, etc.). (R.p.47, para. 49; R.p.56, para. 101). However, through the use of engineered barriers and work control processes Chem-Nuclear has effectively eliminated all of the actual contact between the waste and rain water (R.p.58, para. 117), although contact between waste and ground water has not been completely eliminated.<sup>22</sup>

In concluding that the requirements of S. C. Code Reg. 61-63, 7.11.11, required the elimination of contact between water, disposal units, and waste, this Court of Appeals concluded that subparts 7.11.11 provided “a strict standard for compliance . . . .”<sup>23</sup> In so concluding, this Court of Appeals improperly trivializes the applicability of subpart 7.20 – Protection of Individuals During Operations. That provision requires that “[o]perations at the land disposal facility shall be

---

<sup>21</sup> See 24A S.C. Code Reg. § 61-63, Part VII (Thomson Reuters West 2010).

<sup>22</sup> Nevertheless, the lengthy groundwater travel time, the engineered barriers, and the extended decay rates of radioactive materials all operate together to ensure that any release of radioactive material would be and, indeed, is well below the applicable regulatory limits.

<sup>23</sup> Chem-Nuclear II, \_\_\_ S.C. \_\_\_, \_\_\_, \_\_\_ S.E.2d \_\_\_, \_\_\_, fn. 11. (2014 WL 3734366, \*21).

conducted in compliance with the standards for radiation protection set out in Part III[24] of these regulations . . . .]25 Most importantly, those provisions, although not considered, much less addressed, by this Court of Appeals in Chem-Nuclear II, requires that “[e]very reasonable effort should be made to maintain radiation exposures *as low as is reasonably achievable*.”26

### III. ARGUMENT AND CITATION OF AUTHORITY

#### *This Court Of Appeals Should Impose A Stay On All Directives In The Chem-Nuclear II Opinion Until Such Time As The Appellate Process Has Been Fully Concluded*

In the *Chem-Nuclear II* decision, this Court of Appeals directed Chem-Nuclear and DHEC “to submit a written plan for [Chem-Nuclear’s] compliance [with the requirements and objectives of Part VII of 24A *S.C. Code Ann. Regs.* §§ 61-63] to the ALC within [90] days of this opinion.”27 Secondly, this Court of Appeals also directed the following to occur:

The ALC shall promptly determine if Chem–Nuclear will come into compliance with the regulations under the plan. If the ALC determines the plan will bring Chem–Nuclear into compliance, it shall set a schedule for Chem–Nuclear to promptly implement the plan. If the ALC determines the plan will not bring Chem–Nuclear into compliance, it shall issue an order

---

24 Part III of *S. C. Code Reg.* 61-63 addresses the Standards for Protection Against Radiation. Chem-Nuclear’s position, as set forth in the contemporaneously filed Petition for Rehearing, is that it is error for this Court of Appeals to impose a strict interpretation of the requirements of 7.11.11 without necessary qualifying that interpretation on light of the important safety considerations set forth in subpart 7.20.

25 S. C. Code Ann. Reg. 61-63 Part VII 7.20

26 S. C. Code Ann. Reg. 61-63 Part VII 7.20

27 Chem-Nuclear II, \_\_\_ S.C. \_\_\_, \_\_\_, \_\_\_ S.E.2d \_\_\_, \_\_\_ (2014 WL 3734366, \*21).

revoking Chem–Nuclear's license [to operate the Barnwell Facility].<sup>28</sup>

On the one hand, this Court of Appeals specifically provided that “an order of the ALC revoking Chem–Nuclear's license will be stayed while a [P]etition for [R]ehearing is pending before this [C]ourt [of Appeals], or while a [P]etition for [C]ertiorari is pending before the [S]upreme [C]ourt.”<sup>29</sup> However, on the other hand, this Court of Appeals did not provide for a stay of (a) Chem-Nuclear’s undertaking and/or production of the required written compliance plan, (b) the ALC’s consideration of the required written compliance plan, or (c) the ALC’s actual rendering of a written decision on whether the required written compliance plan would bring Chem-Nuclear into conformity with the applicable regulations.<sup>30</sup>

As this Court of Appeals is aware, Chem-Nuclear has contemporaneously filed a *Petition for Rehearing* with this Court of Appeals seeking a review of the *Chem-Nuclear II* decision. DHEC has filed a similar petition with this Court of Appeals. Even though such “petitions for rehearing” are seldom granted by the panel rendering the original decision, there is always the possibility that members of this Court of Appeals may wish to have this matter reheard. Moreover, as this Court of Appeals is aware, Chem-Nuclear’s and DHEC’s filing of their respective Petitions for Rehearing, is a necessary and required step for them both in the

---

<sup>28</sup> *Chem-Nuclear II*, \_\_\_ S.C. \_\_\_, \_\_\_, \_\_\_ S.E.2d \_\_\_, \_\_\_ (2014 WL 3734366, \*21).

<sup>29</sup> *Chem-Nuclear II*, \_\_\_ S.C. \_\_\_, \_\_\_, \_\_\_ S.E.2d \_\_\_, \_\_\_ (2014 WL 3734366, \*21).

<sup>30</sup> This Court of Appeals did indicate that the “requirement of a written plan will not be stayed except by order of this [C]ourt [of Appeals] or the [S]upreme [C]ourt,” *Chem-Nuclear II*, \_\_\_ S.C. \_\_\_, \_\_\_, \_\_\_ S.E.2d \_\_\_, \_\_\_ (2014 WL 3734366, \*21), thereby somewhat impliedly inviting submission of the instance motion.

process for Chem-Nuclear and DHEC to seek certiorari review of Chem-Nuclear II by the Supreme Court.<sup>31</sup>

Given the possibility of some alteration to, modification of, and/or outright reversal of the Chem-Nuclear II decision on (1) either the original panel's rehearing review, or (2) upon the Supreme Court's certiorari review, Chem-Nuclear believes that this Court of Appeals should impose a stay on the following activities until such time as the appellate process has been fully and finally concluded:

- (a) the directive and requirement that Chem-Nuclear undertakes to compile, assemble, and produce the required written compliance plan;
- (b) the directive and requirement that Chem-Nuclear and DHEC submit the required written compliance plan to the ALC within 90 days of 30 July 2014;
- (c) the directive and requirement that the ALC promptly consider and make a determination whether the required written compliance plan will bring Chem-Nuclear in compliance with the relevant regulations, and
- (d) the implied directive and requirement that the ALC render a written decision regarding whether the required written compliance plan would bring Chem-Nuclear into conformity with the applicable regulations.

Chem-Nuclear believes that the requested stay is warranted on the grounds that the status quo should be maintained at present until the appellate process has been given the opportunity to run its full course since such activities

---

<sup>31</sup> See generally Rules 219, 221, 242, SCACR.

which Chem-Nuclear seeks to stay may ultimately be found to be either different than that ordered by this Court of Appeals or altogether unnecessary. Importantly, the status quo as relates to disposal operations has changed significantly since the appellate record was created before the ALC in 2005.<sup>32</sup> Furthermore, the *status quo* should be maintained at present given the fact that Chem-Nuclear, as far as the regulatory bodies are concerned, is in compliance with the applicable regulations governing its operations at the Barnwell Facility.

Alternatively, if this Court is not inclined to stay the directives set forth above, at a minimum fairness and justice would dictate a stay of the ALC's determination of Chem-Nuclear's compliance, since the standard for compliance is, or may be, or will be rendered uncertain by Chem-Nuclear's and DHEC's respective pending requests for re-hearing by this Court of Appeals and for certiorari review of *Chem-Nuclear II* by the Supreme Court.

---

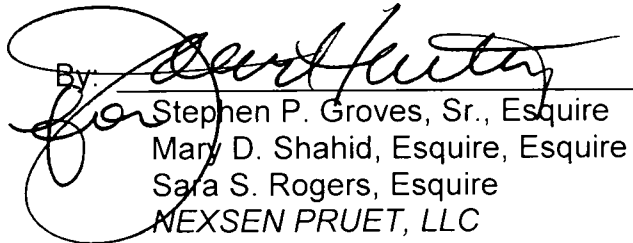
<sup>32</sup> In addition to the amendments listed in footnote 10, Chem-Nuclear has developed procedures, reviewed by SCDHEC, to shelter waste from wet weather prior to disposal, to place temporary covers on large components in open trenches, and to place temporary lids on vaults that are only partially full. Chem-Nuclear has shifted to the smaller B/C trenches which reduce the potential for collection of water.

## V. CONCLUSION

Based upon the foregoing arguments and citation of authority, the Respondent, Chem-Nuclear Systems, LLC, respectfully requests this Court of Appeals to impose a stay on all directives set forth in the Chem-Nuclear II decision issued on 30 July 2014, until such time as the appellate process herein has been fully and finally concluded. Alternatively, Chem-Nuclear Systems, LLC, seeks a stay on the directives to the ALC, as the standard by which the ALC would review and make determinations of the submitted plan is rendered uncertain by Chem-Nuclear Systems, LLC's intent to seek re-hearing and review.

Respectfully submitted:

*NEXSEN PRUET, LLC*

By: 

Stephen P. Groves, Sr., Esquire  
Mary D. Shahid, Esquire, Esquire  
Sara S. Rogers, Esquire  
*NEXSEN PRUET, LLC*  
205 King Street, Suite 400  
Charleston, South Carolina 29401  
Telephone: 843.720.1725  
Telecopier: 843.414.8206  
E-Mail:

[sgroves@nexsenpruet.com](mailto:sgroves@nexsenpruet.com)  
[mshahid@nexsenpruet.com](mailto:mshahid@nexsenpruet.com)  
[srogers@nexsenpruet.com](mailto:srogers@nexsenpruet.com)

*Attorneys for the Respondent,  
Chem-Nuclear Systems, LLC*

Charleston, South Carolina

13 August 2014

STATE OF SOUTH CAROLINA  
IN THE  
COURT OF APPEALS

---

Appeal from the Administrative Law Court  
Honorable Ralph King Anderson, III, Administrative Law Judge  
Case No. 04-ALC-07-0126-CC

---

RECEIVED

AUG 13 2014

SC Court of Appeals

Appellant,

Appellant,

v.

South Carolina Department of Health and  
Environmental Control and Chem-Nuclear  
Systems, LLC,

Respondents.

---

**Proof of Service  
for the Motion for Imposition of Stay  
of the Respondent, Chem-Nuclear Systems, LLC**

---

Stephen P. Groves, Sr., Esquire  
Mary D. Shahid, Esquire  
Sara S. Rogers, Esquire  
NEXSEN PRUET, LLC  
205 King Street, Suite 400  
Charleston, South Carolina 29401  
Telephone: 843.720.1725  
Telecopier: 843.414.8206

*Attorneys for the Respondent,  
Chem-Nuclear Systems, LLC*

I, Stephen P. Groves, Esquire, hereby certify that on \_\_\_ August 2014, served one copy each of the **Motion for Imposition of Stay** submitted on behalf of the Respondent, Chem-Nuclear Systems, LLC, on all counsel of record herein via United States Mail, postage pre-paid, and addressed as follows:

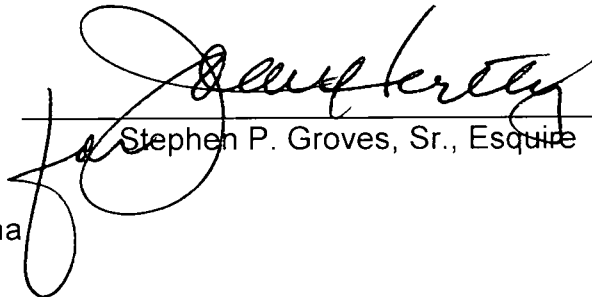
Amy E. Armstrong, Esquire  
Michael G. Corley, Esquire  
*SOUTH CAROLINA ENVIRONMENTAL LAW PROJECT*  
Post Office Box 1380  
Pawleys Island, South Carolina 29585

Robert Guild, Esquire  
314 Pall Mall  
Columbia, South Carolina 29201

*Attorneys for the Appellant,  
Appellant*

Jacquelyn S. Dickman, Esquire  
Deputy General Counsel  
Claire H. Prince, Esquire  
Office of General Counsel  
*SOUTH CAROLINA DEPARTMENT OF HEALTH  
AND ENVIRONMENTAL CONTROL*  
2600 Bull Street  
Columbia, South Carolina 29201

*Attorneys for the Respondent,  
S.C. Dept. of Health & Env'tl. Control*

  
\_\_\_\_\_  
Stephen P. Groves, Sr., Esquire

Charleston, South Carolina

13 August 2014

NPCOL1:3935727.1-NT-(MSHAHID) 049893-00002

Stephen P. Groves, Sr.



13 August 2014

AUG 13 2014

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court Of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

SC Court of Appeals

Re: Sierra Club v SCDHEC & Chem Nuclear Systems, LLC  
Administrative Law Court Case No.: 04-ALC-07-0126-CC  
Appellate Case Tracking No.: 2012-212791

Dear Ms. Kitchings:

Pursuant to Rules 219(b), 221(a), and 240(d) of the South Carolina Appellate Court Rules, please find enclosed find the original and seven (7) copies of a Petition for Rehearing of the Petitioner, Chem-Nuclear Systems, LLC and a Motion for Imposition of Stay Pending Final Resolution of Appeals Process of the Respondent, Chem-Nuclear Systems, LLC in the above captioned matter. Finally, I enclose two (2) firms checks in the amount of \$25.00 (each) to cover the applicable filing fee.

- Charleston
- Charlotte
- Columbia
- Greensboro
- Greenville
- Hilton Head
- Myrtle Beach
- Raleigh

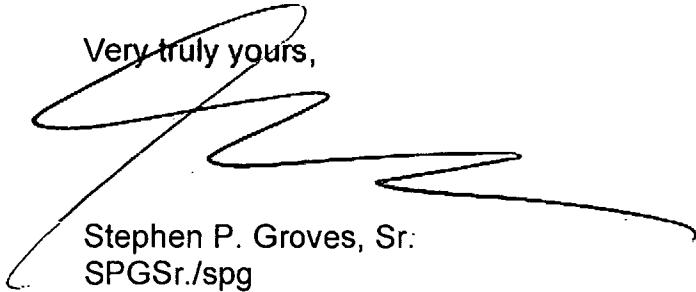
I would appreciate you kindly filing the a Petition for Rehearing of the Petitioner, Chem-Nuclear Systems, LLC and a Motion for Imposition of Stay Pending Final Resolution of Appeals Process of the Respondent, Chem-Nuclear Systems, LLC and the Proof of Service with the Court of Appeals and returning a stamped copy of each to my attention via the courier who delivered these documents.

I look forward to hearing from you at your convenience. If you need anything else or I otherwise may be of any assistance to you or to the Court of Appeals regarding this matter, please feel free to contact me at your convenience. My direct telephone number is 843.720.1725, direct telecopier is 843.414.8206, and the e-mail is [sgroves@nexsenpruet.com](mailto:sgroves@nexsenpruet.com).

Honorable Jenny Abbott Kitchings  
Clerk of Court  
15 July 2014  
Page 2 of 2

---

Very truly yours,

A handwritten signature in black ink, appearing to read "Stephen P. Groves, Sr.", with a long horizontal flourish extending to the right.

Stephen P. Groves, Sr:

SPGSr./spg

cc: Claire Prince, Esquire  
Jacquelyn Dickman, Esquire  
Amy E. Armstrong, Esquire  
Robert Guild, Esquire

NPCOL1:3940404.1-LT-(SPG) 049893-00002