

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM THE ADMINISTRATIVE LAW COURT

John D. McLeod, Administrative Law Judge

Case No. 09-ALC-07-0069-CC

RECEIVED

FEB 02 2015

Town of Arcadia Lakes, Robert L. Jackson, Linda Z.
Jackson, Robert E. Williams, Jr., Barbara S. Williams,
Elizabeth M. Walker, Louis E. Spradlin, Mary Helen
Spradlin, Thomas Hutto Utsey, Tony Sinclair, Aaron
Small, Bette Small, Gene F. Starr, M.D., Elaine J. Starr,
Sanford T. Marcus, Ruth L. Marcus, and Steven Brown..... Petitioners/Appellants,

S.C. SUPREME COURT

vs.

South Carolina Department of Health and Environmental
Control and Roper Pond, LLC Respondents.

MOTION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE

Pursuant to Rule 213, SCACR, the South Carolina Wildlife Federation moves for leave to file a brief as *amicus curiae* in support of Petitioners' standing in this matter.

The South Carolina Wildlife Federation is a nonprofit citizens' conservation organization founded in 1931 to advocate for wildlife, habitat and the environment, educate citizens in the conservation ethic, and support outdoor traditions.

The Federation has vital interests in the permitting programs managed by the South Carolina Department of Health and Environmental Control (DHEC) and its right to seek review of DHEC permitting decisions under Section 44-1-60 of the South Carolina Code. The Federation has been and anticipates being engaged in litigation regarding their

ability to appeal DHEC actions to the DHEC Board and the Administrative Law Court under Section 44-1-60. The attached proposed Brief of Amicus Curiae offers additional analysis that more fully explains the legal boundaries of the right to administrative review under Section 44-1-60 directly applicable to both Petitioners and the Federation.

An *amicus curiae* brief is desirable in this case to clarify the scope of the right to administrative review as an “affected person” under S.C. Code Ann. § 44-1-60. Petitioners’ standing is at issue on appeal. Petitioners assert, among other arguments, standing as “affected persons” under S.C. Code Ann. § 44-1-60. Respondent Roper Pond, LLC has briefed Petitioners’ standing under Section 44-1-60. The Federation respectfully asserts that additional briefing is desirable to clarify the limited scope of the right to administrative review as an “affected person” under Section 44-1-60.

For these reasons, the South Carolina Wildlife Federation moves this Court for leave to file the Brief of *Amicus Curiae* in Support of Petitioners’ Standing attached and filed conditionally with this motion, pursuant to Rule 213, SCACR.

Respectfully Submitted,



J. Blanding Holman IV
Southern Environmental Law Center
463 King Street, Suite B
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Fax: (843) 414-7039

Attorney for Amici Curiae

Charleston, SC

January 29th, 2015

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CERTIFICATE OF SERVICE

I hereby certify that on this date I served copies of the Motion for Leave to File Brief of *Amicus Curiae* South Carolina Wildlife Federation In Support of Petitioners' Standing upon counsel for Respondents and Petitioners by placing same in the United States Mail, First Class Postage Prepaid, addressed as follows:

W. Thomas Lavender, Jr., Esq.
Joan W. Hartley, Esq.
Nexsen Pruet, LLC
1230 Main Street, Suite 2426
Columbia, SC 29202

Stephen Hightower, Esq.
S.C. Department of Health & Environmental Control
2600 Bull Street
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Amy Armstrong, Esq.
Jessie White, Esq.
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P.O. Box 1380
Pawleys Island, SC 29585



J. Blanding Holman, IV

January 29th, 2015

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January 29, 2015

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VIA U.S. MAIL

FEB 02 2015

The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
1231 Gervais Street
Columbia, South Carolina 29201

S.C. SUPREME COURT

Re: *Town of Arcadia Lakes, et al., v. S.C. Dep't of Health & Envtl. Control, et al.*
Case No. 09-ALC-07-0069-CC

Dear Mr. Shearouse:

Please find enclosed the original and 7 (seven) copies of a Motion for Leave to File Brief as *Amicus Curiae* on behalf of the South Carolina Wildlife Federation, as well as the required filing fee.

The original and 16 copies of the Brief of *Amicus Curiae* are included for filing conditionally, pursuant to Rule 213 SCACR, and in accordance with Rule 208(b) and Rule 267 SCACR.

Pease file-stamp the additional copies of each and return them to me in the enclosed self-addressed, stamped envelope.

If I can provide any further information, please do not hesitate to let me know.

Very truly yours,

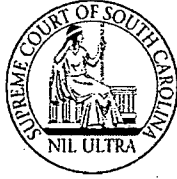


J. Blanding Holman IV
Attorney for *Amicus Curiae* South Carolina Wildlife
Federation

Enclosures

cc: All Counsel of Record

Charlottesville • Chapel Hill • Atlanta • Asheville • Birmingham • Charleston • Nashville • Richmond • Washington, DC



The Supreme Court of South Carolina

Southern Environmental Law Center

02/02/2015

RECEIPT #74918

Case No: 2013-001521
Case Short Title: Town of Arcadia Lakes v. SCDHEC
Event:
Fee Type: Motion Fee
Amount: \$25.00
Payment Type: Check
Reference No: 1660
Check/Money Order Date: 01/29/2015
Comments: