STATE OF SOUTH CAROLINA
IN THE
COURT OF APPEALS

Appeal from the Administrative Law Court
Honorable Shirley C. Robinson, Administrative Law Judge
Appellate Case No. 002010

Case No. 12-ALJ-07-0434-CC

Ken Bruning; Janet Bruning; David Feron, individually and as Trustee; Mary Feron, individually and as Trustee; Byrnal Haley, individually and as Trustee; Salley Haley; Martha James, individually and as Trustee; Don Haarmeyer, individually and as Trustee, and Pamela S. North,

Appellant,

v.

South Carolina Department of Health and Environmental Control, and Cat Island POA, c/o Gary Meyer,

Respondents.

Case No. 12-ALJ-07-0436-CC

In Re: Garfield Park, Phase 3, Cat Island POA, c/o Gary Meyer,

Appellant,

v.

South Carolina Department of Health and Environmental Control, and Cat Island POA, c/o Gary Meyer,

Respondents.

JOINT MOTION TO DISMISS OF THE RESPONDENT CAT ISLAND POA, C/O GARY MEYER AND THE RESPONDENT SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

Mary D. Shahid, Esq.
Angelica M. Colwell, Esq.
NEXSEN PRUET, LLC
205 King Street, Suite 400
Charleston, SC 29401
Telephone: 843.720.1788
Telecopier: 843.414.8242q

Attorneys for the Respondent Cat Island POA c/o Gary Meyer

Nathan Michael Haber, Esq.
SCDHEC Office of Counsel
1362 McMillan Avenue
Suite 400
Charleston, SC 29405
Telephone: 843.953.0229
Telecopier: 843.953.0201

Attorney for the Respondent South Carolina Department of Health and Environmental Control

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

COMES NOW the Respondent Cat Island POA c/o Gary Meyer ("the POA") and the Respondent the South Carolina Department of Health and Environmental Control ("SCDHEC"),[1] pursuant to Rule 240 of the *South Carolina Appellate Court Rules*, and respectfully submits their joint Motion to Dismiss the Appeal for Lack of Standing.

I. STATEMENT OF THE CASE.

On June 18, 2012, SCDHEC, by and through the OCRM, issued a General Permit to Respondent Cat Island POA. (SCDHEC Ex. 1; Final Order, p. 3). The issuance of this permit and associated certification authorized the POA to install water quality filters in storm drains to meet applicable water quality requirements for a planned unit development located on Cat Island, Garfield Park Phase 3 ("GPP3"). Id. This technology had been proposed by the POA to replace the system that had been formerly used for stormwater treatment by GPP3. Id. The former system was lost when a dike that all parties agree was installed between 1960 and 1965 to create an impoundment that served as a component of GPP3's system, developed a leak in June 2009 (Final Order, p. 2).

After SCDHEC issued the General Permit to the POA, the Appellants – who at the time were all owners of property on Cat Island – challenged the permit's validity in front of the Board of Health and Environmental Control and then the South Carolina Administrative Law Court ("the ALC"). (Petitioners' Ex. 1; Final Order, p. 3). The Honorable Shirley J. Robinson, Administrative Law Judge, heard the contested case and affirmed SCDHEC's

---

1 Reference to the Respondent, South Carolina Department of Health and Environmental Control ("SCDHEC") also includes reference to SCDHEC's Office of Ocean and Coastal Resource Management ("OCRM").

decision to grant the General Permit and found the project consistent with the Coastal Zone Management Program Refinements. (Final Order, p. 19).

On November 19, 2014, Appellants filed this appeal of the ALC's decision.**2** The POA and SCDHEC now jointly move to dismiss the appeal on the grounds that Appellants do not have the requisite standing to pursue the matter.

II. STATEMENT OF THE FACTS.

A. History of the Parties' Properties.

GPP3 is one of several phased developments located on Cat Island in Beaufort County, South Carolina. Cat Island was purchased in 1982 by Gary Meyer, developer and POA representative. (Tr.P. 41:13, Final Order, p. 2). Meyer is a member of Chowan Creek Partners, the developer of Cat Island. (Tr.P. 49:12-19).**3**

At the time of the hearing in the ALC, the Appellants were all owners of property on Cat Island. (Final Order, p. 2). Several of the Appellants, David Feron, Mary Feron, Sally Haley, Martha James, and Don Haarmeyer, own lots that are adjacent to the former impoundment at the center of this controversy, which has colloquially been referred to as "Cat Island Lake."**4** Two of the Appellants, Ken Bruning and Janet Bruning, live on property that is waterfront – abutting Chowan Creek with a full view – but is not adjacent to

---

2 Appellants filed their Notice of Appeal on September 18, 2014. Appellants' initial brief was timely filed after the filing date was extended.

3 Chowan Creek Partners is named as Defendant in an action brought by Appellants, as Plaintiffs, in the Court of Common Pleas for Beaufort County, Civil Action No.: 2010-CP-07-3113, now pending, in which Plaintiffs seek damages for alleged property damage arising from the loss of lake view and alleged diminution of value of Plaintiffs' properties. (Tr.P. 90-91).

4 David Feron and Mary Feron own and reside at 7 Sheridan Road on Cat Island. (Tr.P. 446:19-22). Sally Haley owns and resides on a lake front lot on Cat Island that she purchased with her husband in 1994. (Tr.P. 461:10-16). Martha James and Don Haarmeyer own and reside at 11 Sheridan Road on Cat Island. Pamela North and her husband John E. North, Jr. formerly owned 2 Rush Street (Tr.P. 382:5-6).

the former impoundment due to the intercession of Rush Street. (Tr.P. 471:20-22; Final Order, para. 9). Pamela North's residence had frontage on Chowan Creek and Cat Island Lake (Tr.P. 382:12-16).

All of the Appellants' properties are or were, as will be fully explained below, in a development on Cat Island referred to as "The Rookery." (Tr.P. 45:6-9). The Rookery was the second phase of development of Cat Island. (Tr.P. 41:18-20). The Rookery did not rely on the former impoundment for stormwater treatment. (Tr.P. 142:13-143:4; Final Order, para. 39). The Rookery was developed before June 6, 1992, the effective date of South Carolina's stormwater regulations, so was exempt from stormwater treatment requirements. (Tr.P. 41:18-20; Final Order para 36).

Prior to the hearing in the ALC the POA's counsel learned that Appellant Pamela North and her husband John E. North, Jr. had listed their residence and property on Cat Island, located at 2 Rush Street, for sale. In conjunction with the listing, the Norths prepared and signed a residential Disclosure Statement which specifically asked the property owners to indicate whether or not they were aware of any problems caused by fire, smoke, or water during the ownership, any drainage, soil stability, atmosphere or underground problems during the ownership, any erosion or erosion control affecting the property or any flood hazard, wetlands or flood hazard designations affecting the property. (Tr.P.428-429; Cat Island Ex. 43; Final Order, p. 5, FN 3). Mr. and Mrs. North checked "NO" when answering all these questions. Id. At the hearing, Mrs. North confirmed that she and her husband had purchased the property in 2001 for $740,000.00 (Tr.P. 414:11-15). She also confirmed that the property was being advertised at the time at a listing price of $1,550,000.00. (Tr.P. 426:25-427:1).

After the hearing the POA's counsel learned that Mr. and Mrs. North sold their property at 2 Rush Street for $1,275,000.00. The remaining Appellants own their respective properties on Cat Island.

B. Appellant Pamela North and her husband John E. North, Jr. Recently Sold Their Cat Island Property.

On January 30, 2015, Appellant Pamela North and her husband John E. North, Jr. sold all of their interest in their property at 2 Rush Street, Beaufort, SC 29907 to Joseph F. Obringer and Yi Zhou Obringer for $1,275,000.00.**5** Pursuant to the General Warranty Deed, the Norths have not retained any interest in the property as noted by the following language:

> KNOW ALL MEN BY THESE PRESENTS, that John E. North, Jr. and Pamela S. North, formerly known as Pamela K. North ("the Grantors"), in consideration of the sum of One Million Two Hundred Seventy-Five Thousand and No/100 ($1,275,000.00) Dollars paid in hand at and before the sealing of these presents to Joseph F. Obringer and Yi Zhou Obringer ("the Grantees"), whose address is 2 Rush Street, Beaufort, SC, receipt of which is hereby acknowledged, by these presents ***does hereby grant, bargain, sell and release unto the said Grantees***, as joint tenants with rights of survivorship, and not as tenants in common, their heirs and assigns forever, ***all of Grantors' interest in the following real property, to wit:*** All that certain piece, parcel or lot of land, with improvements thereon, situate, ... designated as Lot 5, Block A of The Rookery ...
>
> * * *
>
> ***TOGETHER with all and singular the rights, hereditaments, and appurtenances to the real property conveyed hereby belonging or in any way incident or appertaining ...***

5 A copy of the General Warranty Deed is attached hereto as Exhibit A and incorporated herein by reference. The General Warranty Deed was recorded in the RMC Office for Beaufort County in Book 3376 at Pages 2069-2072.

(Exhibit A, p. 1-2, emphasis added).

In the interest of complete accuracy with respect to the General Warranty Deed, the above language is followed by an exception:

> ...except that the Grantors to [sic] not convey and specifically retain any and all rights and claims that Grantors may have against Chowan Creek Partners, L.P. or others resulting from or relating to the failure to maintain and repair the dike and lake adjacent to said property and the damage and diminution of value of the property during the Grantors [sic] ownership of the real property only as a result of the failure to repair the breach of the dike and the loss of the lake amenity.

This exception addresses retention of an ongoing right to the claims for property loss and diminution of value that Mr. and Mrs. North are concomitantly pursuing in the circuit court in Beaufort County.**6** It does not address or establish the retention of any property interest by John E. North, Jr. or Pamela S. North and therefore does not affect the release of all such rights accomplished by the language preceding the exception, as quoted above. Clearly, the right to a claim is not equivalent to a property right, nor does it maintain any ongoing interest in the property. The Norths have given possession of the property and all rights to the purchasers Joseph F. Obringer and Yi Zhou Obringer. As such, the Norths presently have no interest whatsoever in their former property.

C. The Appellants failed to produce evidence at the hearing to establish the injuries-in-fact to maintain their cause of action.

---

6 Chowan Creek Partners is named as Defendant in an action brought by Appellants, as Plaintiffs, in the Court of Common Pleas for Beaufort County, Civil Action No. 2010-CP-07-3113, in which Appellants seek damages for alleged property damage arising from the loss of Appellants' lake view and alleged diminution in value of Appellants' homes (Tr.P. 90-91).

Appellants filed the contested case alleging that they were adversely impacted by the proposed retrofit project because it caused actual damage to the waterfront edge of each Appellants' property, diminished the value of the properties and resulted in a loss of a "lakefront view." However, none of the testimony provided by Appellants established an injury-in-fact resulting SCDHEC's issuance of the General Permit.

Aside from Pamela North, none of the Appellants testified to any actual damage to property at the lower court hearing. Though she testified to a loss of plants between her driveway and the edge of the lake, she stated only that the loss occurred "after the dike broke" and did not connect the loss to flooding from stormwaters. (Tr.P. 412:9-22) David Feron could not say that he had lost any property or landscaping on his residential lot. (Tr.P. 451-452). He did confirm the loss of a few trees, but on another piece of property, not his residential lot. (Tr.P. 452:12-17). And, Mr. Feron could not say with any certainty that flooding from the breached impoundment had killed these trees. (Tr.P. 456:1-19).**7** Similarly, Salley Haley was unable to attribute any loss of landscaping or shrubbery to water coming onto her property (Tr.P. 468:19 - 469:10). She testified that she has not experienced flooding and that she did not believe there had been any erosion on her property. Id.

Second, Appellants failed to establish a causal connection between SCDHEC's issuance of the General Permit and damage alleged to have occurred to the Appellants' properties. Testimony from the POA's engineer the established that the stormwater had very little effect on the water level of the lake at mean high high tide, meaning that the

---

7 At his discovery deposition, Mr. Feron testified that there had been no loss of landscaping on his property. He also confirmed that he had not experienced any erosion causing him to consider installation of a bulkhead or other erosion control structure on his property. (Dep.Tr.Pp. 11 and 19, attached as Ex. B).

impoundment's] borders, including Mrs. North's. (Final Order, para. 53). Appellants presented no evidence to rebut these findings of the POA's engineers. (Final Order, para. 53). Again, at least one Appellant admitted that her property had never been flooded. Though Pamela North's testimony alleged encroachment by water from the former impoundment on her property, she also confirmed, as previously explained in the Statement of Facts, that she and her husband had reported no erosion issues or erosion control affecting her property on the real estate disclosure form that both she and her husband signed to list her property for sale. (Tr.P. 429:2-15).**8**

In fact, the Appellants' testimony clarified that the primary injury each of them claimed was the loss of their lake-front view. First, Ms. North testified to a belief that her property had lost value due to the loss of view of the impoundment. (Tr.P. 411:18-412:3). Mrs. North confirmed that she had not had her property appraised and could not quantify with any certainty the property damage she was alleging. (Tr.P. 411:24-412:3). Then, David Feron agreed with Mrs. North's testimony. (Tr.P. 448:22-449:5). Mr. Feron had two appraisals of his property that he asserted demonstrated a loss of value, but these appraisals were from 2006 and 2010, before and after the economic recession. (Tr.P. 458:6-459:2). Salley Haley also confirmed agreement with Mrs. North's testimony. (Tr.P. 461:17-23). Ms. Haley had no appraisals to support any claim of economic loss in her property. (Tr.P. 473:14-18). In addition, she specifically

---

8 Neither Martha James nor Don Haarmeyer testified at the trial. But, at her discovery deposition, Ms. James did testify that she had not lost any property or sustained property damage from encroachment by tidal waters, nor had her property been damaged by erosion. (Dep.Tr.P. 26-27, attached as Ex. C). Again, Ken Bruning and Janet Bruning's lot is not waterfront to the former impoundment and therefore cannot have sustained any erosion from water flow through the impoundment.

characterized her injury related to the impoundment as loss of the lake view that has been replaced by marsh. (Tr.P. 472:8-473:13).

III. ARGUMENT AND CITATION OF AUTHORITY.

At the time Appellants initiated this matter, their pleadings alleged facts giving an appearance that Appellants might qualify as "person[s] adversely affected by the [OCRM's] staff's initial permitting application decision" [who could] "exercise the right to file request for contested case hearing before [the ALC]."**9** But, Appellants did not prevail in the lower court in part because they failed to produce evidence establishing that any of them had sustained an 'injury-in-fact' with a causal connection to the conduct complained of that could be redressed by a favorable decision of the court. In short, Appellants failed to establish the fundamental elements of standing for their case.

Standing, in a dispute with DHEC, "[s]hall be determined on the basis of applicable statutes, regulations, case law and Board orders." S.C. Code Reg. 61-72.401. The "irreducible constitutional minimum of standing contains three elements. First, the plaintiff must have suffered an 'injury in fact,' an invasion of a legally protected interest which is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical. Second, there must be a causal connection between the injury and the conduct complained of – the injury has to be "fairly trace(able) to the challenged action of the defendant, and not ...th[e] result [of] the independent action of

---

9 Smiley v. South Carolina Dep't of Health and Envt'l Control, 374 S.C. 326, 649 S.E.2d 31, 32 (2007) (*citing* S.C. Code Ann. § 48-39-150 (Thomson West 2005)) (First alteration in original). As this Supreme Court noted "[t]he statutory scheme was substantially altered in 2006 to conform to the new ALJ/Court of Appeals appellate review scheme." Smiley, *supra* at 329, 649 S.E.2d 31, 32 (*citing* Lujan v. Defenders of Wildlife, 504 U.S. 555, 560-561 (1992) (internal citations omitted); Sea Pines Assoc. for the Protection of Wildlife, Inc. v. South Carolina Dep't of Nat'l Resources, 345 S.C. 594, 550 S.E.2d 287 (2001)).

some third party not before the court." Third, it must be 'likely,' as opposed to merely 'speculative,' that the injury will be 'redressed by a favorable decision.' " **10**

A. By selling her property, Appellant Pamela K. North voluntarily relinquished her ability to establish standing required to continue this case.

After selling all of the rights and interest in their property, John E. North, Jr. and Pamela North have unilaterally and voluntarily forfeited any ability for Appellant Pamela North to claim 'injury-in-fact' and have rendered this appeal moot. They have clearly established that there has been no loss of value in their property, which they sold for nearly double the price at which it was bought.

As the South Carolina Supreme Court noted in Georgetown County League of Women Voters v. Smith Land Co., Inc.:

> The linchpin of this analysis is that [each of the Appellants] must have a personal stake in the litigation, meaning each Appellant is the real party in interest. In other words, each Appellant must have a real, material, or substantial interest in the litigation, not a merely nominal or technical one. Moreover, the injury must be of a personal nature to [each Appellant as] the party bringing the action ... [Each Appellant] bears the burden of proving all the elements.**11**

In South Carolina Dep't of Revenue v. Club Rio, this Court noted:

> [Appellate courts do] not concern [themselves] with moot or speculative questions. An appellate court will not pass judgment on moot and academic questions; it will not adjudicate a matter when no actual controversy capable of specific relief exists. A case becomes moot when judgment, if rendered, will have no practical legal effect upon the existing controversy. Mootness also arises when some

---

10 Sea Pines Ass'n for the Prot. of Wildlife, Inc. v. S.C. Dep't of Natural Res., 345 S.C. 594, 601, 550 S.E.2d 287, 291 (2001) (citing Lujan v. Defenders of Wildlife, 504 U.S. 555, 560-561 (1992).

11 Georgetown County League of Women Voters v. Smith Land Co., Inc., 393 S.C. 350, 358, 713 S.E.2d 287, 291-292 (2011) (Internal citations and quotation marks omitted).

> event occurs making it impossible for the reviewing court to grant effectual relief.**12**

It has also been noted that "[m]oot appeals differ from unripe appeals in that moot appeals result when intervening events render a case nonjusticiable."**13**

When Appellant Pamela North and her husband John E. North, Jr. sold all of their rights and interests in the actual property located at Lot 5, Block A of The Rookery, a/k/a 2 Rush Street, Mrs. North lost the ability to claim that she had "suffered [a legally protected] 'injury-in-fact' – [which was both] (a) concrete and particularized, and (b) 'actual or imminent' ..."**14** Even if Mrs. North could have proved she had standing when the litigation was initiated, which Respondents specifically challenge for other reasons and do not concede, she voluntarily forfeited her position when she sold her Cat Island property. And, since no other Appellant established injury-in-fact to their property or that their claimed injuries are redressable by a favorable decision of the court, there is no Appellant with sufficient standing to prosecute this action.

B. Appellants failed to establish the occurrence of injuries-in-fact to their properties or to show that their claims, all of which relate to loss of the impoundment, could be redressed by a favorable decision of the court.

As the lower court correctly recognized, Appellants produced no evidence to establish loss of property. No Appellant other than Pamela North testified as to a loss of landscaping, but her testimony was speculative as to the timing and cause of the

---

12 South Carolina Dep't of Revenue v. Club Rio, 392 S.C. 636, 643, 709 S.E.2d 690, 692 (S.C. 2011) (*quoting* Sloan v. Greenville County, 380 S.C. 528, 535, 670 S.E.2d 663, 667 (S.C.App.2009) (internal citation and quotation marks omitted in original).

13 Linda McCo, Inc. v. Shore, 390 S.C. 543, 557, 703 S.E.2d 499, 506 (2010) (*quoting* Curtis v. State, 345 S.C. 557, 567, 549 S.E.2d 591, 596 (2001)(citation omitted).

14 Smiley v. South Carolina Dep't of Health and Envt'l Control, 374 S.C. 326, 329, 649 S.E.2d 31, 32 (S.C.2007) (*citing* Lujan v, Defenders of Wildlife, 504 U.S. 555, 560-561 (1992) (internal citations omitted); Sea Pines Assoc. for the Protection of Wildlife, Inc. v. South Carolina Dep't of Nat'l Resources, 345 S.C. 594, 550 S.E.2d 287 (S.C. 2001)).

alleged loss. Appellant David Feron testified as to the loss of a couple of trees, but then admitted that the trees were not on his residential property. He also admitted to guessing that the alleged flooding might have killed these trees (Tr.P. 452:8-11). In short, Mr. Feron's testimony on this point is speculative. Mrs. Haley confirmed that not only that there had been no erosion on her property but also that the shrubbery she observed to have died in her backyard may have been due to old age. (Tr.P. 469:1-15). Ultimately, Mrs. Haley admitted she just [didn't] know the cause. (Tr.P. 469:6-7).

Appellants' testimony regarding diminution of value in their properties was also speculative. Mrs. North had no appraisal to support her claim of lost value but rather said her "common sense" told her that the house was worth less. (Tr.P. 412:1-3). Mr. Feron had appraisals but from different years before and after the economic recession. (Tr.P. 458-459). No Appellant produced any evidence to establish loss of value in their property with any certainty.

Moreover, Appellants' testimony made clear that all of their claims for property damage and loss of value were grounded in the loss of view of Cat Island Lake. Loss of view is not a cognizable claim in South Carolina.**15** And, Appellants cannot claim total loss of natural view since there has only been a transformation of the former impoundment to a tidal marsh and not a complete loss of the natural environment. All of the Appellants disregard the fact that they still have a view of a natural tidal marsh from their properties. Mrs. North's testimony on valuation clearly disregards the waterfront view of Chowan Creek that was unaffected by the breach in the dike.

---

15 O'Shea v. Lesser, 308 S.C. 10, 18, 416 S.E.2d. 629, 633 (1992), *citing* Hill v. The Beach Co., 279 S.C. 313, 306 S.E.2d 604 (1983).

Further, loss of the impoundment cannot be causally connected in any way to SCDHEC's actions in this case. Appellants all clearly attribute their alleged damages to conditions they say resulted from the breach in the dike that all parties agree was spontaneous and caused loss of the impoundment. Allegations relating to loss of the impoundment have nothing to do with the governmental action of issuing the General Permit that Appellants have challenged with their case. Appellants failed to state concrete injuries resulting from issuance of the General Permit.

Appellants also failed to establish standing because the injuries they claimed could not be redressed by a favorable decision by the court. Even if the lower court had decided the case in favor of the Appellants, that decision would not have redressed the Appellants' claimed injuries because it would have only prevented finalization of the General Permit authorizing the Retrofit Project. Such decision could not have had any effect on the status of the lost impoundment, the result Appellants really want, because it would not force repair of the breach or re-establishment of the impoundment.

IV. CONCLUSION.

This matter involves Appellants' personal challenges to the General Permit issued by SCDHEC authorizing the POA to install water quality filters in storm drains on Cat Island. The divestiture by Appellant Pamela North of all of her interests in the property she formerly owned on Cat Island has mooted consideration of any of the issues she has raised. Without any ownership of property on Cat Island, it is impossible for Pamela North to establish any personal stake in the subject matter of this litigation or standing to attack SCDHEC's grant of the permit. Though the remaining Appellants still own their respective Cat Island properties, no Appellant established injury to property of

a nature sufficient to constitute an injury-in-fact, nor did they establish that the injuries they have complained of – alleged loss of property and property value - could be redressed by a favorable decision of the court. Thus, no Appellant has established standing necessary to maintain this case.

Based upon the foregoing arguments and citation of authority, the Respondents, Cat Island POA c/o Gary Meyer and South Carolina Department of Health and Environmental Control, respectfully request this Appellate Court to dismiss this appeal as moot due to Appellant Pamela North's sale of the property that formerly provided her a personal stake in the case, and the failure of any Appellant to produce evidence of an injury-in-fact redressable by a favorable decision of the court.

Respectfully submitted,

NEXSEN PRUET, LLC

Mary D. Shahid, Esquire
Angelica M. Colwell, Esquire
Attorneys for the Respondents Cat Island POA c/o Gary Meyer

and

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

Nathan Haber, Esquire
Attorney for the Respondent South Carolina Department of Health and Environmental Control

Charleston, South Carolina
6 March 2015

STATE OF SOUTH CAROLINA
IN THE
COURT OF APPEALS

Appeal from the Administrative Law Court
Honorable Shirley C. Robinson, Administrative Law Judge
Appellate Case No. 002010

Case No. 12-ALJ-07-0434-CC

Ken Bruning; Janet Bruning; David Feron, individually and as Trustee; Mary Feron, individually and as Trustee; Byrnal Haley, individually and as Trustee; Salley Haley; Martha James, individually and as Trustee; Don Haarmeyer, individually and as Trustee, and Pamela S. North,

Appellant,

v.

South Carolina Department of Health and Environmental Control, and Cat Island POA, c/o Gary Meyer,

Respondents.

Case No. 12-ALJ-07-0436-CC

In Re: Garfield Park, Phase 3, Cat Island POA, c/o Gary Meyer,

Appellant,

v.

South Carolina Department of Health and Environmental Control, and Cat Island POA, c/o Gary Meyer,

Respondents.

PROOF OF SERVICE for JOINT MOTION TO DISMISS OF THE RESPONDENT CAT ISLAND POA, C/O GARY MEYER AND THE RESPONDENT SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

It is hereby certified that on 6 March 2015, the Joint Motion to Dismiss submitted by the Respondent Cat Island POA c/o Gary Meyer and the Respondent South Carolina Department of Health and Environmental Control was served on aa counsel of record in this appeal, via the United States Mail, postage pre-paid, and addressed as follows:

John E. North, Jr.
NORTH & BLACK, PC
916 Bay Street, Suite 100
Beaufort, SC 29902

Ruthie Parish

NEXSEN PRUET, LLC
PO Box 486
205 King Street, Suite 400
Charleston, SC 29402
Telephone: 843.577.9440

NEXSEN|PRUET

Mary D. Shahid
Member
Admitted in SC

March 6, 2015

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

Re: Ken Bruning, etc, et al. v. SCDHEC and Cat Island POA, etc., et al.
Appeal from the South Carolina Administrative Law Court
ALC Case No.: 2012-ALJ-070434-CC
COA Case No.: 2014-002010
NP File No.: 52058-2

Dear Ms. Kitchings:

Enclosed please find an original and seven copies of the Joint Motion to Dismiss of the Respondent Cat Island POA, c/o Gary Meyer and The Respondent South Carolina Department of Health and Environmental Control, and an original and one copy of the Proof of Service prepared by Respondent Cat Island.

I would appreciate your filing of these materials, and have enclosed a self-addressed stamped envelope to receive a clocked copy of each for my file. If there is anything else your office may need from me, please feel free to contact me at your convenience at the telephone number and/or email address indicated below.

Very truly yours,

for Mary D. Shahid

cc: John North, Esq.
Nathan Haber, Esq.

Charleston
Charlotte
Columbia
Greensboro
Greenville
Hilton Head
Myrtle Beach
Raleigh

205 King Street
Suite 400 (29401)
PO Box 486
Charleston, SC 29402
www.nexsenpruet.com

T 843.720.1788
F 843.414.8242
E MShahid@nexsenpruet.com
Nexsen Pruet, LLC
Attorneys and Counselors at Law

NEASEN PRUET

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

52058-2 ms