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MAY 26 2015

**S.C. Supreme Court**

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Ralph King Anderson, III, Administrative Law Judge

Appellate Case No. 2013-000364

Ann Dreher,.....Respondent

v.

South Carolina Department of Health and Environmental Control.....Petitioner.

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MOTION TO STRIKE AND EXCLUDE

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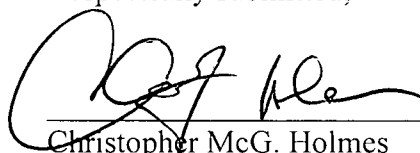
Respondent moves this Court for an Order striking and excluding material improperly attached to an amicus brief filed by the South Carolina Coastal Conservation League ("SCCCL"). The basis of this motion is that on April 10, 2015, SCCCL filed a motion for permission to file an amicus brief in support of DHEC's petition for rehearing in this matter. This motion contained exhibits and references to matters that were not part of the Record on Appeal.

By Order dated May 8, 2015, this Court granted SCCCL permission to file the amicus brief. On May 18, respondent's counsel received an electronic version of the brief which included approximately 24 pages of exhibits which were never a part of the Record on Appeal nor introduced in any of the previous proceedings before DHEC, the Administrative Law Court, the South Carolina Court of Appeals or this Court. Those pages are not in compliance with Rule 213 SCACR which

require that an amicus brief conform to Rules 208(b) and 211 SCACR which in turn mandate confining arguments to matters appearing in the Record on Appeal. Furthermore, Rule 210(c) SCACR provides “The record shall not, however, include matter which was not presented to the lower court or tribunal.”

The material SCCCL improperly attempts to insert into these proceedings consists of minutes of meetings and legislative proceedings with numerous unexplained handwritten insertions, notations and stricken language. It is doubtful these items would have been admissible had they been offered during the contested case before the ALC as they are essentially hearsay. At least if DHEC had identified these items as exhibits during preparation of the case respondent would have had the opportunity to question the authors of these documents and challenge any conclusions that might have been offered. Attempting to inject them into this case at this late hour and in this manner is simply improper, highly prejudicial, in violation of the rules and should not be permitted.

Respectfully submitted,



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Attorney for Respondent

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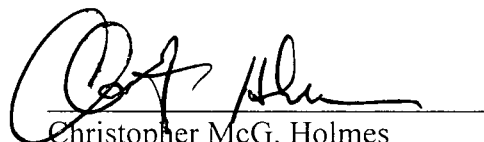
South Carolina Department of Health and Environmental Control,.....Petitioner,

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 21, 2015, he served Respondent's **MOTION TO STRIKE AND EXCLUDE** via United States mail, first class, postage prepaid, on the following parties and counsel of record as listed below:

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