

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM CHESTERFIELD COUNTY  
Court of Common Pleas

Roger E. Henderson, Circuit Court Judge

Appellate Case No. 2016-001604  
Circuit Court Case No. 2015-CP-13-00379

**RECEIVED**  
OCT 17 2016  
SC Court of Appeals

Town of McBee ..... Appellant,

v.

Alligator Rural Water & Sewer Company, Inc., Alligator  
Rural Water Company, Inc. .... Defendants,

and

A.O. Smith Corporation..... Intervenor-  
Defendant,

of whom

Alligator Rural Water & Sewer Company, Inc. and  
Alligator Rural Water Company, Inc. are the..... Respondents.

APPELLANT'S MOTION FOR EXPEDITED APPEAL

Pursuant to Rule 263(b), SCACR, the Town of McBee respectfully requests that the Court expedite its consideration of this appeal because the circuit court's preliminary injunction has placed the Town's water system and its water customers in an untenable and costly state of limbo.

In short, the circuit court orders pending on appeal have enjoined the Town of McBee from using its own DHEC-permitted wells to supply the water necessary to operate McBee's water system and, instead, have forced McBee to continue purchasing water wholesale from the Alligator Defendants during the pendency of this case. This situation, for which there is no legal

support, requires McBee to continue using technology and equipment that have recently become damaged and inoperable without the Town incurring considerable expense that can and should be avoided by dissolving the improper injunction.

As the attached Affidavit describes, while this appeal has been pending, the SCADA system on one of the water tanks supplying the Town was damaged during a storm and is no longer functioning. As a result, a Town employee must manually monitor and adjust the water levels in the tank at all times. In the alternative, a replacement SCADA system could be purchased. This system costs approximately \$50,000.

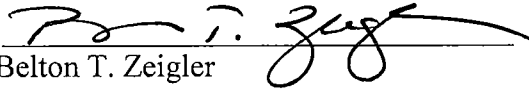
If the Town were to operate its own wells—an option that is currently unavailable because of the circuit court's injunction—the SCADA system would be unnecessary. Additionally, the Town is currently paying approximately \$75,000 per year to Alligator because it is prohibited from operating its own water system, which it has no simple means to recover since it is due under the contract.

Therefore, the Town respectfully requests expedited consideration of this appeal so that it does not risk unnecessarily and wastefully spending over \$125,000 of the Town's funds should this Court determine that the preliminary injunction was issued in error.

*SIGNATURE PAGE ATTACHED*

Respectfully submitted,

WOMBLE CARLYLE SANDRIDGE & RICE, LLP

By: 

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Attorneys for the Town of McBee

October 17, 2016

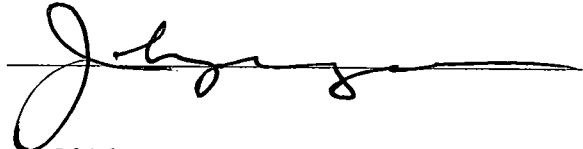
STATE OF SOUTH CAROLINA	)	IN THE COURT OF APPEALS
Town of McBee,	)	Appellate Case No.
	)	Circuit Court Case No. 2015-CP-13-379
Appellant,	)	
	)	
vs.	)	
	)	
Alligator Rural Water & Sewer	)	<b>AFFIDAVIT OF JOHN CAMPOLONG,</b>
Company, Inc.; Alligator Rural Water	)	<b>MAYOR OF TOWN OF MCBEE</b>
Company, Inc.,	)	
	)	
Defendants,	)	
	)	
and	)	
	)	
A.O. Smith Corporation,	)	
	)	
Intervenor-Defendant,	)	
	)	
of whom	)	
	)	
Alligator Rural Water & Sewer	)	
Company, Inc. and Alligator Rural	)	
Water Company, Inc. are the,	)	
	)	
Respondents.	)	

Personally appeared before me the undersigned, John Campolong, who being duly sworn deposes and states as follows:


1. I am John Campolong, Mayor of the Town of McBee, South Carolina.
2. On the evening of June 28, 2016, the SCADA system on one of the water tanks supplying the Town was damaged as a result of a storm. Due to this damage, the valve for the tank must be turned on manually to maintain the water level in the tank.
3. Currently, the Town is prohibited from operating its own wells due to a temporary restraining order, the granting of which is presently on appeal before this Court.

4. While this temporary restraining order is in place, the Town will have to continue to manually adjust the water levels in the tank, requiring constant attention by a Town employee, or replace the SCADA system.
5. To replace the SCADA system will cost the Town approximately \$50,000.
6. Should the grant of the temporary restraining order be overturned on appeal, the Town will be able to operate its own wells, which do not require a SCADA system.
7. Additionally, the Town is currently paying Alligator approximately \$75,000 a year for water because it is prohibited from operating its own wells.
8. The Town has no simple means to recover these payments, as they are paid for water service provided by Alligator under the terms of the injunction.

FURTHER THE DEPONENT SAITH NOT.



SWORN to BEFORE me the 17<sup>th</sup> day of Oct., 2016.

  
\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: 2/26/2023

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PROOF OF SERVICE

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I do hereby certify that I have served the below parties in this action with a copy of the pleading(s) specified below by mailing a copy of the same, via United States mail, postage prepaid, to the following address(es):

Pleading: Appellant's Motion for Expedited Appeal

Parties Served:

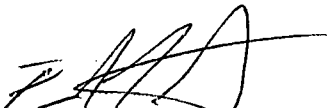
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*Attorneys for A. O. Smith*

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Edwin T. Mathis

October 17, 2016

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October 17, 2016

The South Carolina Court of Appeals  
The Honorable Jenny Abbott Kitchings  
1220 Senate Street  
Columbia, SC 29201

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SC Court of Appeals

Re: Town of McBee, South Carolina v. Alligator Rural Water & Sewer Company, Inc.,  
Alligator Rural Water Company, Inc.  
Appellate Case No. 2016-001604

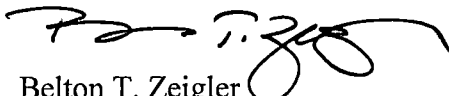
Dear Ms. Kitchings:

Enclosed for filing for the case captioned above, please find the Initial Brief of Appellant, Appellant's Designation of Matter, Appellant's Motion for Expedited Appeal (and 6 copies) and our check in the amount of \$25. Please file the originals and return a clocked copy via our courier.

With kind regards, I remain

Very truly yours,

**WOMBLE CARLYLE SANDRIDGE & RICE**  
*A Limited Liability Partnership*

  
Belton T. Zeigler

BTZ/tm  
Enclosure

cc: William O. Spencer, Jr.  
Marguerite S. Willis  
Martin S. Driggers, Jr.