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S.C. SUPREME COURT

ALAN WILSON
ATTORNEY GENERAL

November 16, 2016

The Honorable Daniel E. Shearouse
Clerk, Supreme Court of
South Carolina
HAND DELIVERED

Re: Jowers v. SCDHEC Appellate Case No. 2016-000428
Return to Motion for Leave to File Amicus Brief

Dear Mr. Shearouse:

I am writing on behalf of the Department of Health and Environmental Control in response to the Motion for Leave to File Amicus Brief of the Congaree Riverkeeper.

We are concerned about this brief's late submission and the insufficient time to respond to it before oral argument. We received it yesterday, only two weeks and two days prior to oral argument in this case and seven weeks after the parties filed final briefs in September. The amicus brief is of substantial length at 38 pages – much longer than DHEC's brief in this case. The brief cites reports that are apparently not in the Record, and extensively argues the issues in this case much like a merits brief. DHEC would like the opportunity to respond to the brief if accepted, but insufficient time remains - much less time than the normal 30 days for responding to a brief. Undersigned counsel, who wrote DHEC's brief and will present the agency's oral argument, has other deadlines, including preparing for oral argument in this case, which would not allow time to write an adequate response to this brief. Thanksgiving, of course, falls during this period. The amicus brief should have been submitted long before now. The Order on appeal was filed last January 8, and the notice of appeal was filed in February.

For these reasons, should this Court decide to grant leave to file the amicus brief, DHEC respectfully requests that it be given 30 days to respond to the brief, and that oral argument be rescheduled for after that time.

If the Court prefers that this return be submitted in a more formal format, please let us know, and we will quickly do so. Thank you for your consideration of this matter.

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Respectfully submitted,



J. Emory Smith, Jr.
Deputy Solicitor General
Counsel for Respondent DHEC

cc: Amy E. Armstrong, Esquire
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John D. Echeverria, Esquire (Pro Hac Vice Motion pending)