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THE STATE OF SOUTH CAROLINA  
In the South Carolina Court of Appeals

**RECEIVED**

APPEAL FROM COUNTY OF AIKEN

JAN 19 2017

M. Anderson Griffith, Master-In-Equity

**SC Court of Appeals**

Appellate Case No.: 2016-002102

Canadian River Farms, Ltd., Colt Farms, Inc., B C Farms, Inc., n/k/a , B C Farms of South Carolina, Inc., and Outback Farms, Ltd.,

Respondents/Appellants

vs.

Becky Gonshorawski, The South Carolina Department of Transportation and Aiken County, a body politic and political subdivision of the State of South Carolina,

Respondents

Ex Parte: Carolyn Barrett, Robert Barrett and Save Windsor SC,  
Proposed Intervenor,

Appellant, Respondent.

APPELLANTS/RESPONDENTS' SUPPLEMENT TO MOTION FOR  
SANCTIONS AND TO ORDER THE RETURN TO THE STATUS QUO ANTE

Appellants/ Respondents' hereby supplement their Motion for Sanctions and Return to Status Quo Ante due to occurrences related to the roads subject to this action which have damaged private property and endangered the public subsequent to year end 2016 as follows:

On or about January 10, 2017 several motorists driving along Oak Ridge Club Rd. in Aiken County, State of South Carolina encountered a deep hole approximately 20 feet by 20 feet which appeared to be a water puddle. Upon crossing said portion of road several vehicles became

submerged in water causing at least one motorists in a truck, who's rear tires were off of the road and said vehicle was at a 45 degree angle in said hole, to escape from the cabin's rear window. In each instance, vehicles were damaged and required repair.

The deep pit, based on information and belief and per affiant Carolyn Barret and other affiants, is caused by a purposeful alteration of the curve and elevation of the road and/or digging of a pit in the roadway. The area surrounding the water filled pit was studded with spikes and/or metal protrusions which were placed at or around the pit (but at no other location along the roadway) to prevent motorists from circumnavigating the hazard. One affiant who attempted to avoid the hazard wound up having his tire punctured as a result of the obstacles. Although, according to the affiants, Respondent/Appellants' had knowledge of and/or created the hazard, they did nothing to repair the damage or in any way notify unsuspecting motorists of the danger. Although supporting affidavits are attached, to give the Court the flavor of the Respondent/Appellants attitude towards this Court, we quote from the affidavit of John Herring (wrecker driver); "The B.C. Farm Employee told me, "One thing for sure, they will never use this road again." From that comment, I felt this was a deliberate act by the farm to keep people from traveling this road. I was also told that this was private property and I should never come back here and trespass."

Appellants/Respondents hereby allege that the Respondents/Appellants have engaged in a calculated and malicious pattern of activity to keep the roads closed for inordinate amounts of time (see Motion for Sanctions and Return to Status Quo Ante filed in this Appeal by Appellants/Respondants) and have now engaged in behavior that endangers the lives of motorists and their personal property. Appellants/Respondents behavior has effectively closed the road by making said road impassable and therefore are in violation of the automatic stay under this

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appeal. Appellants therefore renew their request for sanctions against said Respondent/Appellants and request an Order of this Court upholding the automatic stay and return to status quo ante in accordance with Appellate Court Rule 241, et seq. Attached hereto are supporting affidavits and exhibits.

I SO MOVE

BMO 4/17/2017

Brad Owensby, for Appellants/Respondents  
319 Park Ave. SE  
Aiken, SC 29801  
803.648.5777

James D. Mosteller, III, for Appellants/Respondents  
322 Laurens St. NW  
Aiken, SC 29801

AFFIDAVIT IN SUPPORT OF MOTION FOR SANCTIONS AND RESTORATION OF STATUS QUO ANTE

Personally appeared before me, Carolyn Barrett, Appellant/Respondent, who being duly sworn deposes and says that:

(1) She is a resident of Aiken County living at 252 Old Bell Road, Aiken, 29801 and is one of the founders of Save Windsor SC, and has been duly authorized to speak for the 72 members in the group, an unincorporated association.

(2) She is informed and believes that plaintiffs, individually or collectively are in violation of the automatic stay of appeal, since the Farm closed the road for the third time, which is the subject matter of the litigation under appeal.

(3) For 3 days prior to New Years 1/1/17, our area got 6 inches of rain. Ever since the farm cleared the timber and changed the contour of the road in 2015, there has been a dip in the road on Oak Ridge Club Road between Old Bell Road and Cedar Branch Road. There are two hills before you get to this area and the road previously was level and was never an issue. On 1/3/17 Channel 12 News, Augusta, Ga, WRDW, had a report that water was all the way across the road and it was closed.

(4) I went to the Farm and B. C. Farms, Inc had sectioned off that area with fence posts and yellow tape and Brandon Woody closed the road. I reported this to Aiken County Administrator Clay Killian, and Roads & Bridges supervisor, Waylon Fields. Attached is a picture of the road closed.

(5) Aiken County is supposed to maintain this road during the legal case. Their supervisor, Waylon Fields came to look at it but neither the County or Mr. Woody made any effort to fix it. Late in the day on 1/9/17 or early am 1/10/17, Mr. Woody reopened the road.

(6) On 1/10/17, I began to get reports of people getting stuck in the hole. One side of the hole had large tire tracks near it and it appeared to be much deeper than the other side. I am enclosing a picture of the edge of the road that was the deepest, and it appeared to me that a large piece of equipment had run thru there.

(7) On 1/10/17 a truck got stuck in the road and the person stated the entire front tire was down in the hole: also that right side of hole was much deeper than the other one: and he could have been killed. His truck was up in the air at a 45 degree angle. Water was rushing into the cab of the truck and he could not get a door open to escape and luckily, his rear window had a sliding glass so he had to crawl out the back window. He was standing on the back of the truck and two trucks from the farm (One of which is believed to be Brandon Woody) came up. He asked if they could help him and was told "No". Mr. Woody told him he was the 3rd vehicle today to get stuck. He also told him he was trespassing on private property. The victim immediately got on the phone and called a wrecker. When he crawled out of the back of the truck, the water was up to his shoulders so his estimate was that the right side of the hole, facing Cedar Branch Road, was

at least 5 feet deep.

(8) The above individual had \$1500 damage to his truck as one of the computer sensors shorted out. He stated when wrecker arrived, Mr. Woody came back. The wrecker driver went over to talk to him and was told he was on private property and he should never come back there. The victim did an interview about the problem on Channel 12, WRDW, Augusta, Ga on the 6:00 news on 1/12/17. CD of news story attached. Affidavit from wrecker driver attached.

(9) While this victim was out there trying to get his vehicle out, there was a car that had been pulled to the side. It was later reported to us that this car was totaled out. Both front & back bumpers were pulled off the vehicle and it had so much damage to the under carriage that it was totaled out.

(10) I took pictures of the road when the Farm had it closed, the posted signs, and the spikes that were buried in the ground. On the left side of the bog hole, facing Cedar Branch road, there were two spikes made out of fence posts that were buried in the ground. It appears that these spikes were placed with the proper length apart to take out both tires if a car ran over them. They protruded out of the ground about 8 inches. They were placed to keep citizens from driving around the bog hole. They were short pieces of fence post buried in the ground and would not be visible from a vehicle. On WRDW channel 12 news story on 1/12/17, Mr. Woody stated he knew nothing about any spikes, he only put up fence posts to keep people from trespassing on his property. He also stated on this TV interview that there had always been a bog hole there. I have lived on and traveled this road for 15 years and there has never been a bog hole there.

(11) It is believed that at least 5 cars were damaged during this time. After Save Windsor SC ran the story to alert citizens of the danger, most residents stopped using the road.

(12) On Friday 1/13/17, I went to the farm and took pictures (copy attached) the Farm had a lot of large pieces of equipment, spreaders applying fertilizer, etc. working near the hole. When I walked to the left hand side, facing Cedar Branch Road, I noticed the two spikes had been pulled up. I took pictures of the holes where the spikes had been removed.

(13) The road was closed by B.C.Farms, Inc., for approximately 7 days from 1/3/17. During this time, there were no signs placed at the area telling people this was a dangerous place and to use caution if crossing. On 1/12/17, Save Windsor, SC, had the TV interview on the 6:00 PM News, Channel 12, Augusta, Ga, warning residents and for the most part they avoided the area.

She thinks sanctions should be paid by the farm for closing the road while it was under an automatic stay as well as making no attempt to fix the problem so the road could remain open and safe to the public. Roads need to return to Status Quo Ante.

Further Affiant Sayeth Not.

Sworn and subscribed to on this

17<sup>th</sup> day of January, 2017.  
Sarah Yeston



---

Carolyn Barrett

Sarah Rose Felton  
South Carolina Notary Public  
Commission expires  
February 11, 2026

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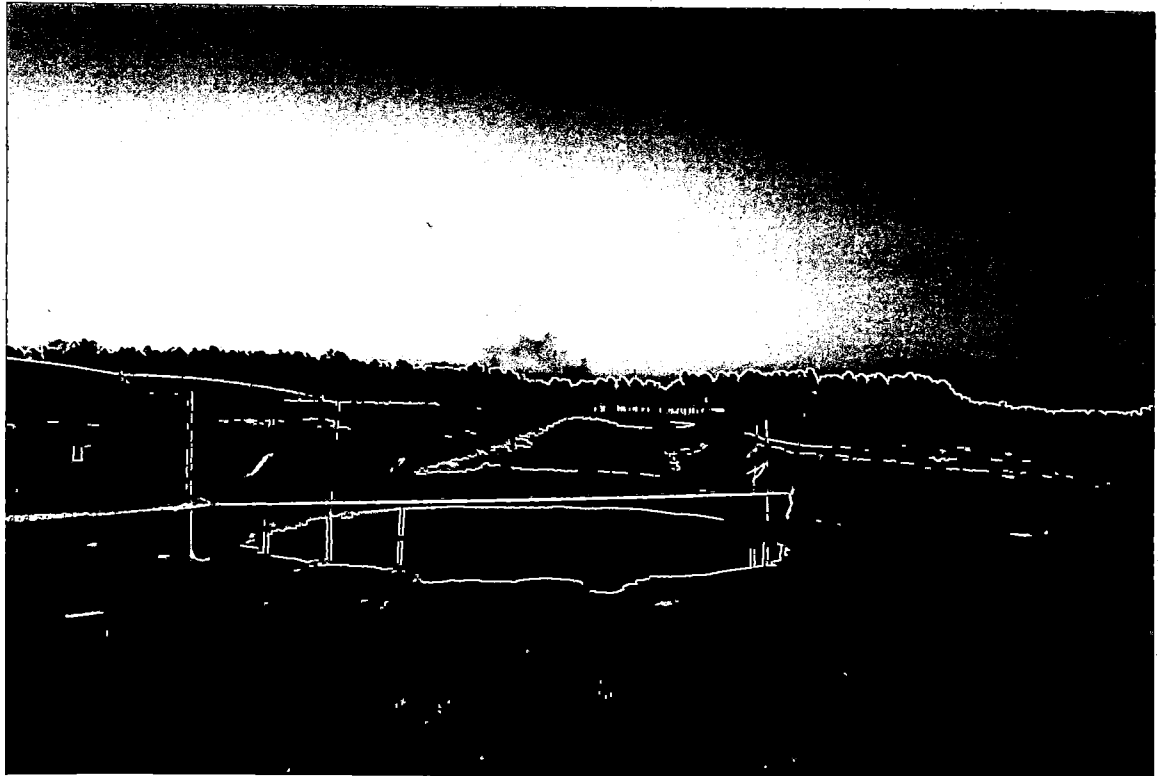
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PIT LOCATED ON OAK RIDGE CLUB ROAD

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AFFIDAVIT IN SUPPORT OF MOTION FOR SANCTIONS AND RESTORATION OF STATUS QUO ANTE

Personally appeared before me, Lewis Hatcher of Aiken, SC.

I was traveling on Oak Ridge Club Road headed towards Cedar Branch Road on 1-11-17 as I travel this road 4 or 5 times daily. The road was completely covered by water and I could tell it was deep. I attempted to drive on the edge of the road so I would avoid the deeper center but I got my truck stuck. There were fence posts along the side of the road with yellow caution ribbons tied to them and Posted- no trespassing signs on the sides. The dirt that is banked up in the middle of the road is much higher than on the edges.

My son lives near here, we work together, and I am back and forth several times a day. It was early in the morning as my son had to get his daughter to school.

I called my neighbor to come help me get the truck out. The water was so deep that it began to run inside the truck. I did avoid the really deep part on the other side.

I have lived on Old Bell Road for 22 years and I travel this road a lot. This area of Oak Ridge Club Road has never been impassible during that time. Sometimes water would build up on the sides of the road but has never been across the road. Before the farm cleared the trees, the road was level and had areas cut in the sides for water to drain. In 22 years I have never seen it like this.

Further Affiant Sayeth not.

Sworn and subscribed to on

this 17<sup>th</sup> day of Jan. 2017  
*Sarah Felton*

*Lewis Hatcher*

Lewis Hatcher

**Sarah Rose Felton**  
South Carolina Notary Public  
Commission expires  
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AFFIDAVIT IN SUPPORT OF MOTION FOR SANCTIONS AND RESTORATION OF STATUS QUO ANTE

Personally appeared before me, Sean Cheadle, of Windsor SC.

On January 5th, 2017, I was traveling on Oak Ridge Club road near Cedar branch road on the B.C.Farms, Inc. I got my truck stuck in a really deep water/ bog area near Cedar Branch. The truck I was driving is an F150 that belonged to my deceased father and I did not want to do any damage to the truck.

I know how road right of ways work because of a former job I had working on roadways so I knew I would not be trespassing if I attempted to go around the water. I attempted to go around it on the left side facing Cedar Branch as it was inside the right of way. I ended up with a flat tire and ended up getting stuck.

I called a friend to pull me out of the bog. I had time to assess the problems with the water covering the road and the right side appeared to be much deeper than the other side and there were a lot of heavy equipment large tire tracks in the dirt.

I have traveled on this part of Oak Ridge Club Road all my life and we never had a problem. Sometimes water would accumulate on the sides of the road, but it drained off well because Aiken County had cut out areas to divert the water. There has never been a time when the road was not passable. When the farm clear cut the trees, they created two hills, one on each side of this area. This road was level and had curves but never held water.

I got a lot of water in the truck, have not yet had the damages assessed. Since the front of the truck was submerged in water, I left it running so water would not go into the motor.

I thought it was really bad that the farm did not put up any warning signs but instead just allowed people to damage their vehicles. I also did not understand why no attempt was made to fix the road since the farm has large backhoes and equipment available.

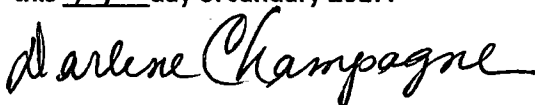
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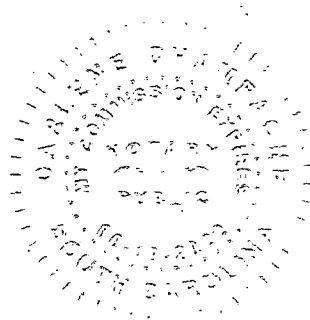
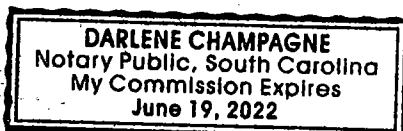


Sean Cheadle

Sworn and subscribed to on

this 14th day of January 2017.





AFFIDAVIT IN SUPPORT OF MOTION FOR SANCTIONS AND RESTORATION OF STATUS QUO ANTE

Personally appeared before me, John Herring, of Wayne's Automotive Wrecker Service.

I answered a wrecker call on Oak Ridge Club Road on 1/10/17 when a truck got stuck in a bog hole on this road. The truck fell into a deep hole and the front of his truck was completely covered with water. When I arrived, there were employees from the farm there that told me I could not drive over their property in order to remove the truck from the water. I do this a lot and know the right of way is 25 feet from the middle of the road. The owner of the truck wanted me to tow it by the trailer hitch and from the back of the vehicle.


I finally pulled up one of the fence posts on the side of the road and managed to get behind the vehicle to tow it. The B.C. Farm, Inc. employee told me, "One thing is for sure, they will never use this road again."

From that comment I felt this was a deliberate act by the farm to keep people from traveling this road. I was also told this was private property and I should never come back here and trespass.

While I was at the scene, I observed a Subaru car parked over to the side. It was an all wheel drive vehicle and had quite extensive damage. Both the front and back bumper were pulled off so I felt someone had tried to pull them out and maybe the owner did not have enough money for a wrecker. The underside of the car had so much damage that I felt it would be totaled. A truck pulled in with a trailer behind it to get the car.

I just wanted to take care of my customer so I hurriedly got the vehicle safe and left the farm.

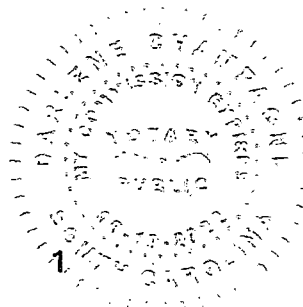
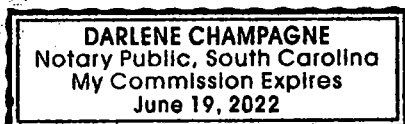
Further Affiant Sayeth not.

  
John Herring

Sworn and subscriber to on this

17<sup>th</sup> day of January, 2017.





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PIT LOCATED AT OAK RIDGE CLUB RD.

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METAL STAKES BY PIT ON OAK RIDGE CLUB ROAD

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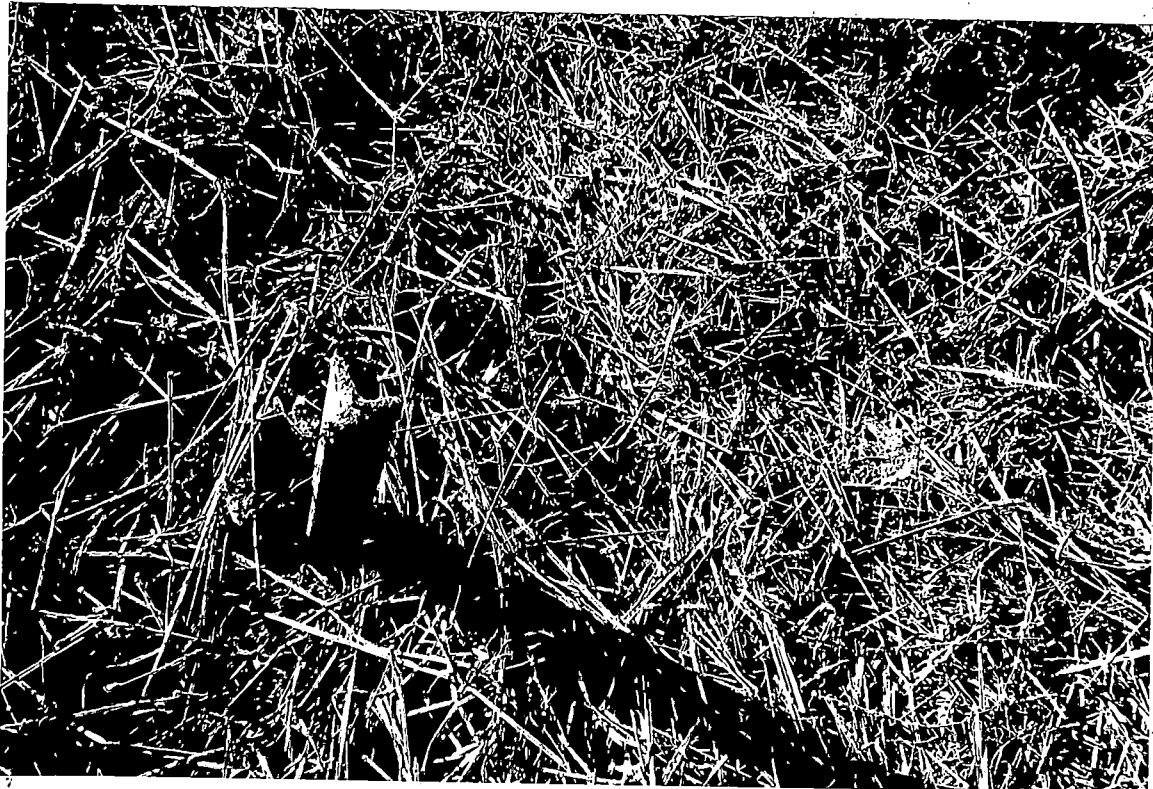
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NO TRESPASSING SIGN ON OAK RIDGE CLUB ROAD

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CBS NEWS ARTICLE REGARDING PIT

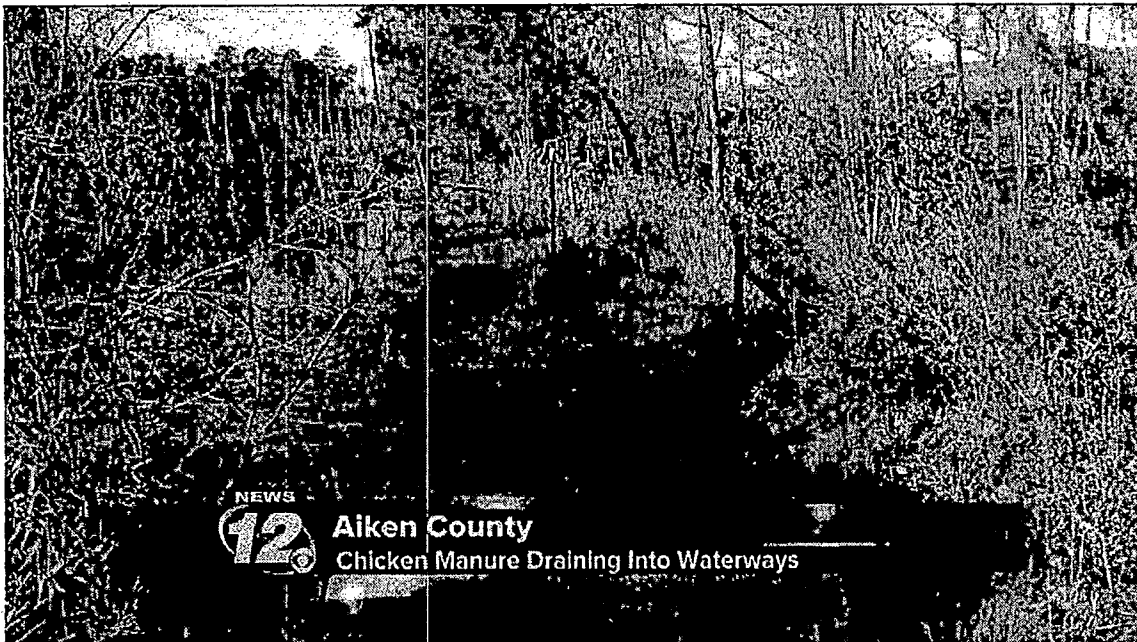
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### Battle over Old Bell Road gets muddy



By Kelly Wiley | Posted: Thu 6:53 PM, Jan 12, 2017 | Updated: Thu 6:54 PM, Jan 12, 2017

News 12 NBC 26 / Thursday, Jan. 12, 2017



AIKEN COUNTY, S.C. (WRDW/WAGT) –There are two ways onto Oak Ridge Club Rd. in Aiken, but right now the only way out is to turn around.

"They said I was the third vehicle that day that got stuck there about 1:30 in the afternoon."

People who are passing through the water-filled ditch on Oak Ridge Rd. are finding out the hard way.

"I was very surprised when the front end of my truck all of a sudden went down and was sitting there in a 45-degree angle."

No warning signs for at least an 11-inch ditch of standing water. Only no trespassing signs.

"I was stuck in there. My back one wheel was actually spinning, because of the situation I was in I actually had to crawl out of the back window."

If you try to go around there's short poles sticking out of the ground and yellow caution tape.

"They had this whole obstacle set up."

Neighbors say "they" is BC Farms. Neighbors have fought with the mega farm for over a year to keep Old Bell Rd. and Oak Ridge Club Rd. open to the public.

While they fight it out in court the road is to stay open, but neighbors say the farm has tried multiple times to block the road and say this is the latest attempt to keep people off.

"The individuals who are up here, they know what's going on, they still haven't put any markers up here to tell you not to go into the hole."

We reached out to Alken County over their responsibility in all this. Brandon Woody with BC Farms says that ditch has always been there. He says he isn't aware of any spikes, but says they did put poles up to keep people from trespassing.

Monday, Jan. 9, 2016

AIKEN, S.C. (WRDW/WAGT) – The wetlands on either side of Beck Rd. are usually filled with black water. Neighbors say it's a different color now.

"I don't know what that color is.. I don't know Khaki colored, tan and green," said Anne Tomlinson.

Neighbors are blaming the icky color on the mega farm, BC Farms, they've been battling for over a year. They say after this past weeks heavy rain the chicken manure ran through the farms fence onto Beck road and into the nearby water.

"I got a muddy chicken poop pond," said Justin Chavis.

Instead of fish, Justin Chavis is pulling manure out of his pond.

"It's just steadily running out their field and it's going to kill all the fish, the frogs, the deer ain't gone come," said Chavis.

It's killing them because if it is chicken manure it contains arsenic. U.S.G.S scientists say in a heavy rain event 70 percent of the arsenic can wash away and possibly contaminate nearby groundwater.

"You got all kind of wells. People round here got wells. They are drawing straight out of the ground. This is ground water. It's not a problem for just me. It's a problem for everybody in this area," said Chavis.

DHEC guidelines say chicken manure can't be applied within 100 feet of potable wells, 50 feet of ditches or within 300 feet of a home. Farmers are supposed to control run off on sloping cultivated fields, but Chavis says there's not much DHEC can do for him now.

"They told me even if they make them put a silt fence up. There is nothing they can do about the damage already done," said Chavis.

Neighbors say they're not sure if BC farms did any of those things to prevent what's happening.

"They gotta come in with all that money and think they ain't gotta follow the rules. And people's getting their pockets lined and ignoring stuff and ain't worried about it because they didn't grow up around here. This ain't nothing to them. This is the world to me," said Chavis.

Brandon Woody with B.C. Farms says the chicken litter was applied a year ago,

Woody says he's been in contact with DHEC and NRCS. Both agencies plan to come out sometime this week to check on the issue. Woody tells me they are taking every measure they can, but it's hard to prepare for everything.

Comments are posted from viewers like you and do not always reflect the views of this station.

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3 Comments WRDW

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Donald Leegh • 7 days ago

The people around BC Farms had better start distilling their drinking water or buying lots of bottled water to drink. The risk of drinking straight well water is too great, given the area conditions.

1 ^ v • Reply • Share



dan daniels • 5 days ago

the people that live in windsor, south carolina should take B.C. Farms to court for damages

^ v • Reply • Share



sctanker • 6 days ago

What about the corporate farm sinking wells of US 78 in Aiken-impacting local resident's well water? The one that was drawing water out of the South Edisto? The one that got a public road shut down? You know, where local people don't matter, but transplants and horses do?

^ v • Reply • Share

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PROOF OF SERVICE

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I certify that I have served the Appellants/Respondents' Supplement To Motion For Sanctions And To Order The Return To The Status Quo Ante by depositing a copy of same in the United States mail, postage prepaid, on January 17, 2017, addressed to:

Respondent(s)/Appellant(s) Counsel:

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Natalie Jean Moore, Attorney for Respondent, Department of Transportation  
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Becky J. Gonshorowski, Pro Se  
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January 17, 2017



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# Banks & Owensby, LLC

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Attorney and Counselor

Bradford Owensby

**RECEIVED**

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SC Court of Appeals

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Honorable Jenny Abbott Kitchings  
Clerk of the South Carolina  
Court of Appeals  
P.O. Box 11629  
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vs.

Becky J. Gonshorowski, The South Carolina Department of Transportation and Aiken County, a body politic and political subdivision of the State of South Carolina,

Ex Parte: Carolyn Barrett, Robert Barrett, and Save Windsor SC, Proposed Intervenor,

Appellate Case No. 2016-002102

Dear Ms. Kitchings:

Please find enclosed the Original and seven copies of the Appellants/Respondents' Supplement To Motion For Sanctions And To Order The Return To The Status Quo Ante along with Proof of Service in the above referenced matter for filing at your earliest convenience. A copy of which has been placed in the United States mail to all Attorneys on record along with Becky J. Gonshorowski. Enclosed also please find a check in the amount of \$25.00 along with a self-addressed, postage pre paid envelope for the mailing back of received copy. If you have any questions or need any further information, please do not hesitate to contact the office.

Thanking you kindly I am ,

Sarah Felton

Legal Assistant to  
Bradford M. Owensby, Esq.

Enclosure

cc: Mary Olivia Guynn, Attorney for (s)/Respondent(s)/Appellant(s)  
J. Calhoun Watson, Attorney for (s)/Respondent(s)/Appellant(s)  
Tina Marie Cundari, Attorney for (s)/Respondent(s)/Appellant(s)  
James M. Holly, Attorney for County of Aiken, SC/Respondent  
Natalie Jean Moore, Attorney for SCDOT/Respondent  
Becky J. Gonshorowski, Pro Se/ Respondent  
Carolyn and Robert Barrett  
James D. Mosteller, III.

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