



THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

Joseph M. Strickland, Master-in-Equity

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Case No. 2016-001440

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RECEIVED  
JAN 17 2017  
SC Court of Appeals

Carolina Chloride, Inc., .....Appellant,

v.

South Carolina Department of Transportation, .....Respondent.

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**APPELLANT'S FINAL REPLY BRIEF**

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### Cases

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## LAW/ANALYSIS

### **I. Carolina Chloride's Property Abuts Farrow Road**

Respondent alleges that the definition of “abut” as articulated in Mosteller v. County of Lexington, 366 S.C. 360, 365, 520 S.E.2d 620, 623 (1999) is inapplicable to the facts of this case. Specifically, Respondent maintains the Court’s statement in Mosteller that a landowner may be considered an abutting owner where its land is merely separate by a stream or river references South Carolina common law regarding ownership of lands beneath non-tidal rivers and streams. (Brief of Resp., p. 7). However, it is important to note that the Court makes no formal reference to South Carolina common law in providing its definition of abut and cited exceptions to whether land abuts albeit with some type of barrier. See Mosteller, 366 S.C. 365, 520 S.E.2d 623.

Indeed, there appears to be no South Carolina case law where our courts have reached whether property may still be deemed to “abut” a road when there is an intervening, man-made barrier, i.e. a railroad bed.

Furthermore, Eldridge v. South Carolina Dept. of Transp., 384 S.C. 548, 683 S.E.2d 483 (2009) and Sonoco v. South Carolina Dept. of Transp., 378 S.C. 385, 662 S.E.2d 599 (2008) favorably cites Mosteller for the

principal that “[a]but means to be contiguous ... [h]owever, abut does not always mean there must be actual contact.” Eldridge, at 552-53, 683 S.E.2d at 485; Sonoco, 378 S.C. at 393, 662 S.E.2d at 603. It is clear the factual distinctions among the case law cited by Carolina Chloride are without a difference as the Court has repeatedly relied upon the definition of “abut” and “contiguous” throughout factually distinguishable cases.

Therefore, according to the definitions of “abut” and “contiguous” as articulated by our courts, Carolina Chloride’s property abuts Farrow Road.

## **II. Carolina Chloride Pursued Administrative Remedies Concerning the Road Closure**

Respondent alleges Carolina Chloride failed to exhaust its administrative remedies to allow Respondent the opportunity to cure the taking. However, Respondent has seemingly ignored the testimony of Robert Morgan, who detailed several meetings and other efforts he undertook prior to the road closure with the express purpose of being able to continue using the access to Farrow Road. (R. p. 137, line 15 – p. 142, line 9). Because Morgan repeatedly efforts pursued administrative remedies regarding the road closure, Carolina Chloride’s suit for inverse condemnation is appropriate.

**CONCLUSION**

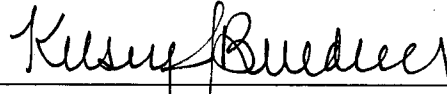
For the reasons stated within the argument of Appellant's Brief and Reply Brief, Appellant respectfully requests this Court reverse the Circuit Court.

[SIGNATURE PAGE TO FOLLOW]

Respectfully submitted,

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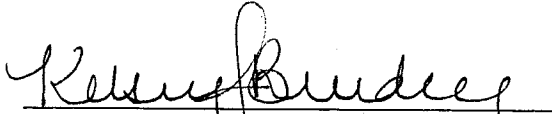
The undersigned certifies that Appellant's Final Brief and Appellant's  
Final Reply Brief complies with Rule 211(b), SCACR.

[SIGNATURE PAGE FOLLOWS]

Respectfully submitted,

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Columbia, South Carolina  
January 24, 2017