

Hopkins, Debbie

From: Trenholm Walker <Walker@WGFLAW.com>
Sent: Friday, June 23, 2017 1:02 PM
To: Hopkins, Debbie
Cc: Nancy Jane Dennis
Subject: RE: Kiawah ROA

Now that all attorneys have agreed on a solution and it is just a matter of substituting the two index pages, we could have our final brief to you no later than next Friday, June 29. Does that work?

From: Hopkins, Debbie [mailto:DJHopkins@sccourts.org]
Sent: Friday, June 23, 2017 12:42 PM
To: Trenholm Walker <Walker@WGFLAW.com>
Subject: RE: Kiawah ROA

Mr. Walker,

The motion you filed with the Court requests an extension of time to run upon receipt of the corrections. Please clarify this request so an order can be properly issued.

Thank you,

Debbie Hopkins

From: Trenholm Walker [mailto:Walker@WGFLAW.com]
Sent: Friday, June 23, 2017 12:38 PM
To: Crawford, Denise <crawfomd@dhec.sc.gov>; Hopkins, Debbie <DJHopkins@sccourts.org>
Cc: Churdar, Bradley <churdabd@dhec.sc.gov>; amy@scelp.org; Nancy Jane Dennis <NJDennis@WGFLAW.com>
Subject: RE: Kiawah ROA

Denise, thank you for preparing the substitute pages and your email to Ms. Hopkins.

I have reviewed the proposed new pages in the index and concur that their substitution should fix the problem. Under the circumstances we can have our final brief to the court in short order.

Trenholm

G. TRENHOLM WALKER

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From: Crawford, Denise [<mailto:crawfomd@dhec.sc.gov>]
Sent: Friday, June 23, 2017 12:27 PM
To: Hopkins, Debbie <DJHopkins@sccourts.org>
Cc: Churdar, Bradley <churdabd@dhec.sc.gov>; Trenholm Walker <Walker@WGFLAW.com>; amy@scelp.org
Subject: Fw: Kiawah ROA

Debbie,

In follow up to our telephone conversation and email communication, attached is the last email communication between the parties concerning the correction to the ROA. Since you are leaving the office by 1:30, and Brad has been unable to get in touch with Trenholm this morning, I wanted to send you this communication in hopes that it would clarify the correction to the ROA. As we discussed and as indicated in Trenholm's last email, we will be substituting two (2) pages of the Index. There will be no additions to the ROA and the numbering will remain the same. The Department has already provided the new Index pages to all parties to be changed out. If you have any questions or need any additional information, please let Brad know, as I will be out of the office on Monday and Tuesday.

In addition, Sandra Wessinger in our Columbia office will be in contact with you to arrange a time to replace the pages in the ROA.

Thank you and have a great weekend.

Denise

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From: Trenholm Walker <Walker@WGFLAW.com>

Sent: Monday, June 19, 2017 8:20 PM

To: amy@scelp.org; Churdar, Bradley

Cc: Crawford, Denise; Nancy Jane Dennis

Subject: RE: Kiawah ROA

The only DA that was admitted as an exhibit was the 2005 DA (KDP Exh 2). It appears at 1788. It is mistakenly described in the index as the 1994 DA. The 1994 DA was not an exhibit, even though it may have been referenced in the questioning and was designated by DHEC (incorrectly since it was not an Exhibit). The index needs to be corrected in both places.

DHEC's technical summary of review is in the record two places, at 1323 (mistakenly instead of the 2005 DA, DHEC Exh 2 substituted for KDP Exh. 2) and at 1755.

For these reasons no additions need to be made to the ROA. The page numbers remain the same. All that is needed is for the last two pages of the index to be corrected and pages substituted (which we have had to do more than once in other cases):

DHEC Exhibit 2 Technical Summary of Review	1323
KDP Exhibit 2 Development Agreement dated October 12, 2005	1788

Also the last page needs to be numbered 1831 and substituted as well (right now it bears only page number 2039 from the ROA of the first appeal).

I think with that everything will be ok if the court can make out the very small page numbers of the new ROA that are mostly obscured by the more prominent page numbers from the ROA on the first appeal.

Trenholm

From: Amy Armstrong [mailto:amy@scelp.org]

Sent: Monday, June 19, 2017 5:30 PM

To: Trenholm Walker <Walker@WGFLAW.com>; Churdar, Bradley <churdabd@dhec.sc.gov>

Cc: Crawford, Denise <crawfomd@dhec.sc.gov>

Subject: Re: Kiawah ROA

I think the extension should apply to all parties. It is possible, indeed very likely, that corrections to the record could cause page numbers to change for some citations, specifically the 1994 and 2005 development agreements and DHEC's technical summary of review. I initially thought that there was only one development agreement identified for inclusion by KDP, but I see now that both the 1994 and 2005 DAs were intended to be included, but only the 1994 DA is included and DHEC Ex 2, the Technical Summary of Review, is included twice (on p 1323 and 1755).

I would be fine without including the 2005 DA and just amending the index to reflect that it is DHEC Ex 2 on p. 1323 and not KDP Ex 2, 2005 DA, but I have to assume that KDP wants it to be included.

I was also on vacation last week and it wasn't until coming back and reviewing the work done to prepare the final briefs I uncovered this problem.

Amy

On Mon, Jun 19, 2017, at 04:03 PM, Trenholm Walker wrote:

I am fine with your proposed solution. I am also fine with an extension – would it apply to DHEC only?

From: Amy Armstrong [mailto:amy@scelp.org]

Sent: Monday, June 19, 2017 1:09 PM

To: Churdar, Bradley <churdabd@dhec.sc.gov>; Trenholm Walker <Walker@WGFLAW.com>

Cc: Crawford, Denise <crawfomd@dhec.sc.gov>

Subject: Re: Kiawah ROA

Yes, KDP Ex 2 is located on p. 1788, but the index reflects that it is located also on p. 1323. But on p. 1323 is DHEC Ex 2, the Technical Summary of Review, which is presently in the record twice. My suggestion was not to change out the incorrect pages, but to change the INDEX to reflect that it is DHEC Ex 2 on p. 1323, not KDP Ex 2.

On Mon, Jun 19, 2017, at 12:57 PM, Churdar, Bradley wrote:

Amy and Trenholm:

KDP Exhibit 2 is the 1994 Development Agreement, correct? Assuming this is accurate, the Development Agreement is also included on page 1788 of the ROA. My concern with your suggestion Amy is that to change out the incorrect pages would require renumbering the whole record. So in the alternative, what do you guys think about just changing the Index to list KDP Exhibit 2 as page 1788? I realize this would make the Index out of order numerically, but it would correctly identify the exhibit without having to renumber the entire ROA. Also, we could change out the first page of the KDP Exhibit 2 (Development Agreement) with the first page of the Development Agreement on page 1788 so that the Exhibit sticker is on the page. Let me know what you think about this solution. It may require approval from Debbie at the Supreme Court.

Also, I just got back from a week of family vacation and am buried with catching up. I would like to submit an extension request with your consent. Would you please let me know if this is acceptable?

Thanks,
Brad

Bradley D. Churdar
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From: Amy Armstrong <amy@scelp.org>
Sent: Monday, June 19, 2017 10:30 AM
To: Churdar, Bradley; Trenholm Walker
Subject: Kiawah ROA

Brad,

When adding citations to the Record on Appeal we discovered that DHEC Exhibit 2 is located where KDP Exhibit 2 is supposed to be, according to the index. I am not sure how you want to handle this. I think the easiest solution would be to prepare a new index that switches the location of these two exhibits, otherwise you'd have to redo a large portion of the record. Also, I have used the actual location of these exhibits (as opposed to the location identified in the index) to reference these exhibits.

Can you please let me know how you propose to handle this discrepancy so I can ensure I'm using the correct references?

Thanks,
Amy

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