

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
John D. McLeod, Administrative Law Judge

Appellate Case No. 2017-001554

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NOV 30 2017
SC Court of Appeals

Town of Arcadia Lakes, Robert L. Jackson, Linda Z. Jackson, Robert E. Williams, Barbara S. Williams, Elizabeth M. Walker, Louis E. Spradlin, Mary Helen Spradlin, Thomas Hutton Utsey, Tony Sinclair, Aaron Small, Bette Small, Gene F. Starr, M.D., Elaine J. Starr, Sanford T. Marcus, Ruth L. Marcus, and Steven Brown, Petitioners,

Of Which Town of Arcadia Lakes is the Appellant/Respondent,

vs.

South Carolina Department of Health and Environmental Control, Respondent, and Roper Pond, LLC, Respondent/Appellant.

**APPELLANT/RESPONDENT'S DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL**

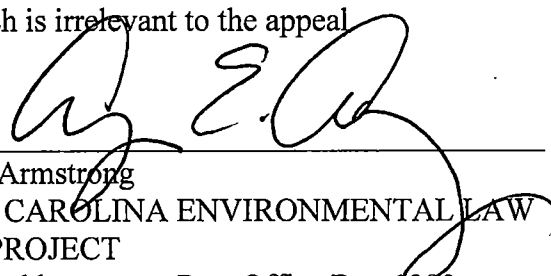
The Appellants propose the following material to be included in the Record on Appeal:

1. ALC Order for Attorneys Fees and Costs and Sanctions, dated June 14, 2017
2. ALC Amended Order on Attorneys Fees and Costs and for Sanctions, dated March 15, 2017
3. ALC Order Granting Motion to Strike, dated January 25, 2016
4. ALC Order to Bifurcate, dated August 3, 2015
5. Supreme Court Order Denying Attorneys Fees and Costs, dated July 17, 2015
6. Supreme Court Order Dismissing as Moot, dated April 9, 2015

7. Supreme Court Order Granting Certiorari, dated August 22, 2014
8. Court of Appeals Opinion on Rehearing, dated June 12, 2013
9. Court of Appeals Opinion, dated March 6, 2013
10. Order Denying Motion for Reconsideration and For Stay, dated April 1, 2010
11. Final Order and Decision, dated January 21, 2010
12. DHEC Board Denial Letter, dated January 14, 2009
13. Petitioners' Request for Final Review Conference, filed December 30, 2008
14. Petitioners' Request for Contested Case Hearing, filed February 16, 2009
15. Prehearing Statement of Petitioners, filed April 9, 2009
16. Amended Prehearing Statement of Petitioners, filed June 16, 2009
17. Final Brief and Final Reply Brief of Petitioners, filed February 28, 2011
18. Petition for Rehearing, filed March 21, 2013
19. Petition for Writ of Certiorari, filed July 12, 2013
20. Return to Petition for Writ of Certiorari, filed September 11, 2013
21. Reply to Return to Petition for Writ of Certiorari, filed October 8, 2013
22. Brief on Certiorari, filed October 2, 2014
23. Motion to Strike (Roper Pond), dated September 10, 2015
24. Response to Motion to Strike (Town), dated October 19, 2015
25. Reply on Motion to Strike (Roper Pond), dated October 26, 2015
26. Amended Motion to Strike or, Alternatively, to Allow Discovery (Town), filed February 21, 2017
27. Response to Amended Motion to Strike or, Alternatively, to Allow Discovery (Roper Pond), filed March 13, 2017
28. Reply on Motion to Strike (Town), filed

29. Third Amended Petition for Attorneys Fees and Costs and for Sanctions, dated November 30, 2015
30. Response to Third Amended Petition for Attorneys Fees and Costs and for Sanctions, dated February 5, 2016
31. Proposed Orders of Roper Pond finding liability and awarding fees, costs and sanctions
32. Hearing Transcript before the Administrative Law Court, dated September 3 & 4, 2009, testimony of Seth Reice
33. Petitioners' Exhibit 3, NPDES General Permit, dated August 1, 2006
34. Petitioners' Exhibit 10, Corps letter from Hadden to Whatley, dated September 9, 2008
35. Petitioners' Exhibit 15, photo
36. Petitioners' Exhibit 16, photo
37. Petitioners' Exhibit 23, Nationwide Permit 401 General Conditions, dated May 11, 2007
38. Petitioners' Exhibit 27, Deposition of Richard W. Thomas, dated August 19, 2009

I certify that this Designation contains no matter which is irrelevant to the appeal



Amy E. Armstrong
SOUTH CAROLINA ENVIRONMENTAL LAW
PROJECT

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Attorney for the Town of Arcadia Lakes

Georgetown, South Carolina

November 28, 2017

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Of Which Town of Arcadia Lakes is the Appellant/Respondent,

vs.

South Carolina Department of Health and Environmental Control, Respondent, and Roper Pond, LLC, Respondent/Appellant.

CERTIFICATE OF SERVICE

I hereby certify that on this date I served Respondents Roper Pond, LLC and SCDHEC with the Town of Arcadia Lakes' Initial Brief, Designation of Matter and Motion to Exceed Page Limit by placing copies of same in the U.S. Mail addressed to:

Stephen Hightower, Esquire
DHEC Office of Counsel
2600 Bull Street
Columbia, SC 29201

Joan Hartley, Esq. & Tommy Lavendar, Esq.
Nexsen Pruet, LLC
1230 Main Street, Suite 700
Columbia, SC 29201

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SC Court of Appeals



Amy Armstrong

Georgetown, South Carolina

November 28, 2017



South Carolina Environmental Law Project

Lawyers for the Wild Side of South Carolina

November 28, 2017

a 501c3
non-profit organization

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Honorable Jenny Abbott Kitchings
Clerk, S. C. Court of Appeals
P. O. Box 11629
Columbia, SC 29211

RE: Town of Arcadia Lakes, et al. v. Roper Pond, LLC, et al.
Appellate Case No. 2017-001554

Dear Ms. Kitchings:

Enclosed for filing, please find the original and two (2) copies of Appellant/Respondent Town of Arcadia Lakes' Initial Brief and Designation of Matter and the original and seven (7) copies of the Town's Motion to Exceed Page Limit, along with my certificate of service and filing fee.

Please return clocked-in copies of each in the enclosed, postage-paid envelop. Thank you for your assistance.

Yours very truly,


Amy Armstrong

cc: Stephen Hightower, Esq.
Joan Hartley, Esq.
Tommy Lavender, Esq.

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