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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

RECEIVED

John D. McLeod, Administrative Law Judge

MAY 18 2018

SC Court of Appeals

Case No. 09-ALJ-07-0069-CC

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 Hutto 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 Appellant/Respondent,

v.

South Carolina Department of Health and Environmental Control. Respondents,

and

Roper Pond, LLC Respondent/Appellant.

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

Pursuant to Rules 240, SCACR, Respondent/Appellant Roper Pond, LLC ("Roper Pond") hereby moves to file an Amended Designation of Matter to be Included in the Record on Appeal.

The grounds for this motion are:

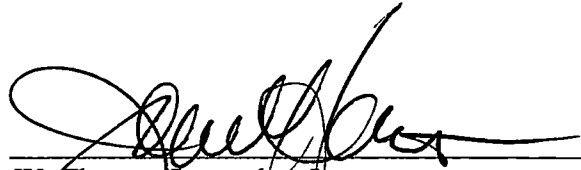
1. On January 29, 2018, Roper Pond filed Respondent's Initial Brief of Respondent/Appellant Roper Pond, LLC ("Initial Brief") and Respondent/Appellant's Designation of Matter to be Included in the Record on

Appeal (“Designation of Matter”).

2. Counsel for Roper Pond was assisting Appellant/Respondent in compiling documents for the record on appeal and discovered that certain documents cited in its Initial Brief were inadvertently omitted from its Designation of Matter. Specifically, Item 4 in Respondent/Appellant’s Designation of Matter did not include pages 190-191, 200-202, 211, 276, and 332 and Exhibits 6 and 12.
3. In order for this Court to properly consider the merits of the arguments set forth in Roper Pond’s Initial Brief, it is necessary for the documents identified above to be included in the Record on Appeal. Accordingly, Roper Pond requests that the Court allow Roper Pond to file an Amended Designation of Matter to be Included in the Record on Appeal.
4. A copy of the Proposed Amended Designation of Matter to be Included in the Record on Appeal is attached hereto.
5. Counsel for Roper Pond has consulted with Appellant/Respondent’s counsel regarding this request to file an Amended Designation of Matter to be Included in the Record on Appeal and Appellant/Respondent’s counsel has consented to the request.

For the reasons set forth herein, Roper Pond respectfully requests that the Court grant this motion and allow Roper Pond to file the Proposed Amended Designation of Matter to be Included in the Record on Appeal.

May 18, 2018



W. Thomas Lavender, Jr.
Joan W. Hartley
NEXSEN PRUET, LLC
1230 Main Street, Suite 700 (29201)
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Columbia, SC 29202
803.771.8900

Attorneys for Respondent/Appellant
Roper Pond, LLC

EXHIBIT A

THE STATE OF SOUTH CAROLINA
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Of Which Town of Arcadia Lakes is Appellant/Respondent,

v.

South Carolina Department of Health and Environmental Control Respondents,

and

Roper Pond, LLC Respondent/Appellant.

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

In addition to documents identified Appellant/Respondent's Designation of Matter to be Included in the Record on Appeal and Respondent/Appellant's Designation of Matter to be Included in the Record on Appeal filed on November 28, 2017, Roper Pond, LLC proposes the following to be included in the Record on Appeal for matters related to its response to Appellant/Respondent's Initial Brief:

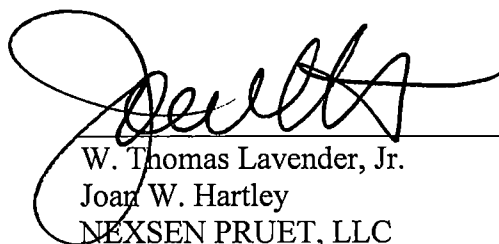
1. Respondent Roper Pond, LLC's Third Amended Petition for Attorneys' Fees and

Costs and for Sanctions Pursuant to Rule 72, SCRPALC dated November 30, 2015, with supporting memorandum of law and affidavits;

2. March 12, 2015 letter from the Clerk of the South Carolina Supreme Court;
3. Deposition Transcript of Richard W. Thomas, Jr., dated August 19, 2009, with exhibits.
4. Hearing Transcript before the Administrative Law Court dated September 3 & 4, 2009: pp. 140-141, 190-91, 200-202, 211, 249, 276, 332, and Roper Pond Exhibits 6 and 12.

I certify that this designation contains no matter which is irrelevant to this appeal.

May 18, 2018



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Attorneys for Respondent/Appellant
Roper Pond, LLC

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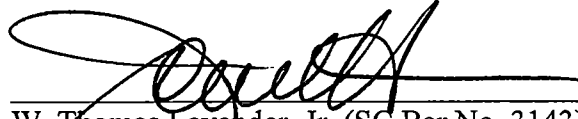
PROOF OF SERVICE

I certify that I have served **Motion to Amend Respondent/Appellant's Designation of matter to be Included in the Record on Appeal** on counsel of record for South Carolina Environmental Law Project and the South Carolina Department of Health and Environmental Control by depositing a copy of it in the United States Mail, postage prepaid, on May 18m 2018, addressed to:

Stephen P. Hightower, Esquire
Office of General Counsel
South Carolina Department of Health
and Environmental Control
2600 Bull Street
Columbia, SC 29201

Amy E. Armstrong, Esquire
South Carolina Environmental Law
Post Office Box 1380
Pawleys Island, SC 29585
430 Highmarket Street
Georgetown, SC 29440

Terry E. Richardson, Jr., Esquire
Richardson Patrick Westbrook & Brickman, LLC
Post Office Box 1368
Barnwell, SC 29812



W. Thomas Lavender, Jr. (SC Bar No. 3143)
Joan W. Hartley (SC Bar No. 72735)
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Fax: 803.727.1471

Attorneys for Respondent/Appellant Roper Pond, LLC

Joan W. Hartley
Special Counsel
Admitted in SC, NC

May 18, 2017

HAND DELIVERED

RECEIVED

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

MAY 18 2018
SC Court of Appeals

Re: *Town of Arcadia Lakes, et al. v. South Carolina Department of
Health and Environmental Control and Roper Pond, LLC*
Docket No. 09-ALC-07-0069-CC
Appellate Case No. 2017-001554

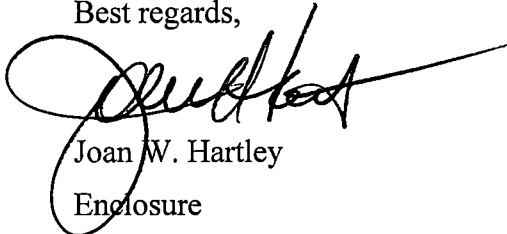
- Charleston
- Charlotte
- Columbia**
- Greensboro
- Greenville
- Hilton Head
- Myrtle Beach

Dear Ms. Kitchings:

Enclosed for filing please find the original and seven (7) copies of Motion to Amend Respondent/Appellant's Designation of matter to be Included in the Record on Appeal and Proof of Service in the above-referenced matter. Also enclosed is our firm's check in the amount of \$25 for the filing fee. Please return a clocked copy of each to us via our courier.

We appreciate your assistance in this matter.

Best regards,



Joan W. Hartley
Enclosure

cc: Amy E. Armstrong, Esquire
Stephen P. Hightower, Esquire

NEXSEN | PRUET

P. O. Drawer 2426
Columbia SC 29202

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