

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas
Charles B. Simmons, Jr., Master-in-Equity

Appellate Case No. 2020-000669
Civil Action No. 2016-CP-23-5905

RECEIVED
Nov 16 2020
SC Court of Appeals

Renewable Water Resources,.....Respondent,

v.

Insurance Reserve Fund, a Division of the State Fiscal
Accountability Authority of South Carolina.....Appellant.

**RESPONDENT RENEWABLE WATER RESOURCES’
DESIGNATION OF MATTER FOR THE RECORD ON APPEAL**

Pursuant to Rule 209, SCACR, Respondent Renewable Water Resources (“ReWa”) designates the following matter for inclusion in the Record on Appeal. These designations are in addition to the matters designated Appellant Insurance Reserve Fund (“IRF”), which are incorporated as if set forth herein. Undersigned counsel certifies pursuant to Rule 209(c), SCACR, that the Designation contains no matter irrelevant to the appeal.

Orders

1. Order of Reference to Master-in-Equity (Sep. 14, 2018).
2. Order of Reference to Master-in-Equity (Sep. 20, 2018).
3. Findings of Fact and Conclusions of Law (March 18, 2020).
4. Order denying IRF’s Post-Trial Motions (April 6, 2020).
5. Order correcting a scrivener’s error (April 9, 2020).
6. Consent Order depositing Funds into Court (April 17, 2020).

7. Order granting in Part Motion for Costs (May 21, 2020).

Pleadings

8. Complaint (October 17, 2016).
9. Amended Complaint (June 15, 2018).
10. ReWa’s Pretrial Brief (February 3, 2020).
11. IRF’s Pretrial Brief (February 3, 2020).
12. Notice of Appeal (April 23, 2020).
13. Amended Notice of Appeal (June 22, 2020).

Motions and Memoranda

14. Consent Motion for Reference to Master-in-Equity (September 12, 2018).
15. IRF’s Motion for Judgment as a Matter of Law and/or Involuntary Nonsuit, Motion to Alter or Amend Judgment and/or Motion for Reconsideration, and Motion for a New Trial (March 30, 2020).
16. ReWa’s Motion for Costs (April 16, 2020).
17. IRF’s Return and Objections to Motion for Costs (April 23, 2020).
18. ReWa’s Reply to IRF’s Objections to Motion for Costs (April 24, 2020).

Transcripts

19. Robert Byers, July 24, 2018, deposition designations.

Designations (page:line)
4:15-17
7:6-17
19:25-20:6
22:2-16
23:1-11
24:25-25:4
25:20 starting with “The Cause”-26:10
28:25 starting with “My question”-29:6
34:6 starting with “My question”-34:17
37:3-9
38:14-22
39:22-25
62:4-5
62:10-11
65:17-23
69:12-19
75:2-5

75:10-25

20. Frederick Young, July 23, 2018, deposition designations.

Designations (page:line)
4:9-12
7:13-14
18:5-9
18:18-19:10
19:16-20
23:1-19
25:13-16
26:11-14
27:1-10
27:22-28:4
28:9 starting with "The holding"-28:19
33:1-7
35:13-36:6
37:13-20
55:15-56:2

21. Trial Transcript (Jan. 28–30, 2020).
22. Transcript of Hearing on ReWa’s Motion for Costs (May 13, 2020).

Trial Exhibits

23. Court Exhibit 1 — Joint Stipulation of Facts.
24. Plaintiff’s Trial exhibits:
- a. Pltf’s Ex. 1: 4/2/2014 General Tort Liability Policy Declaration Page REWA v. IRF_041102-41109.
 - b. Pltf’s Ex. 2: 4/2/2015 Building and Personal Property Policy Declaration Page REWA v. IRF_041110-41118.
 - c. Pltf’s Ex. 4: 7/1/2015 Building and Personal Property Policy Declaration Page REWA v. IRF_041120-41127.
 - d. Pltf’s Ex. 6: 7/1/2016 Building and Personal Property Policy Declaration Page REWA v. IRF_041129-41138.
 - e. Pltf’s Ex. 8: Building and Personal Property Coverage Form SCBCB 001422-1428.
 - f. Pltf’s Ex. 9: Causes of Loss – Special Form SCBCB 001429-1434.
 - g. Pltf’s Ex. 10: Tort Liability Insurance Policy SCBCB 000287-292.

- h. Pltf's Ex. 14: 1/27/2011 Notice of DHEC NDPEs Permit No. SC0048381 REWA v. IRF_041347-41397.
- i. Pltf's Ex. 15: 5/20/2013 Notice of DHEC NPDES Permit No. SC0033804 REWA AECOM_007834-7874.
- j. Pltf's Ex. 18: 7/26/2013 SLED Bulletin REWA006315.
- k. Pltf's Ex. 29: 9/25/2013 DHEC Press Release with Regulation REWA v. IRF_012062-12067.
- l. Pltf's Ex. 30: 9/25/2013 PCB Emergency Regulation REWA v. IRF_020077-20080.
- m. Pltf's Ex. 32: 10/17/2013 ReWa Letter to EPA and DHEC re: Notification of PCB Plan REWA AECOM_007881-7905.
- n. Pltf's Ex. 33: 10/22/2013 DHEC Letter to ReWa re: Beltpress Filtrate Operation pursuant to Emergency PCB Regulation REWA v. IRF_012077.
- o. Pltf's Ex. 38: 4/15/2014 Charles Logue Email to DHEC re: Mauldin and Lower Reedy PCB clean-up REWA v. IRF_012129-12132, 041321.
- p. Pltf's Ex. 42: 5/27/2014 DHEC Email re: PCB regulation REWA v. IRF_012197-12204.
- q. Pltf's Ex. 47: 9/25/2013 IRF Email to Patricia Dennis re: Coverage REWA v. IRF_040843-40844.
- r. Pltf's Ex. 48: 10/10/2013 Nelson Chandler Email to Patricia Dennis re: Coverage SCBCB 001348-1349.
- s. Pltf's Ex. 49: 10/11/2013 IRF Letter to ReWa re: Claim REWA v. IRF_012311-12314.
- t. Pltf's Ex. 50: 10/15/2013 Young Report to IRF re: PCB Contamination SCBCB 000035-60.
- u. Pltf's Ex. 51: 10/18/2013 Young Report to IRF re: PCB Contamination SCBCB 000061.
- v. Pltf's Ex. 52: 1/10/2014 ReWa Email to Fred Young re: PCB Expenses FYoung 0001.
- w. Pltf's Ex. 53: 2/4/2014 ReWa Email to Fred Young re: PCB Expenses FYoung 0002.
- x. Pltf's Ex. 54: 2/5/2014 Patricia Dennis Email to IRF re: Coverage FYoung 0010-11.

- y. Pltf's Ex. 55: 2/5/2014 Fred Young Email to Jerry Anderson re: PCB Expenses FYoung 0005-6.
- z. Pltf's Ex. 60: 2/12/2014 Patricia Dennis Email to Fred Young re: PCB Expenses FYoung 0023-28.
- aa. Pltf's Ex. 62: 3/12/2014 ReWa Email to Fred Young re: PCB Expenses FYoung 0029.
- bb. Pltf's Ex. 63: 4/2/2014 ReWa Email to Fred Young re: PCB Expenses FYoung 0030.
- cc. Pltf's Ex. 65: 4/10/2014 Patricia Dennis Email to Fred Young re: Coverage FYoung 0040-41.
- dd. Pltf's Ex. 67: 5/5/2014 ReWa Email to Fred Young re: PCB Expenses FYoung 0045.
- ee. Pltf's Ex. 68: 5/9/2014 Fred Young Email to Jerry Anderson re: PCB Expenses FYoung 0046.
- ff. Pltf's Ex. 69: 6/4/2014 ReWa Email to Fred Young re: PCB Expenses FYoung 0047.
- gg. Pltf's Ex. 71: 8/4/2014 Fred Young Email to Jerry Anderson re: PCB Expenses FYoung 0052.
- hh. Pltf's Ex. 72: 8/20/2014 Fred Young Email to Jerry Anderson re: PCB Expenses FYoung 0053.
- ii. Pltf's Ex. 73: 9/11/2014 Fred Young Email to Patricia Dennis re: PCB Expenses FYoung 0056.
- jj. Pltf's Ex. 77: 10/30/2014 IRF Letter to ReWa re: Coverage Determination REWA v. IRF_012315-12323.
- kk. Pltf's Ex. 78: 11/5/2014 ReWa Email to Fred Young re: PCB Expenses FYoung 0060.
- ll. Pltf's Ex. 83: 2/9/2015 ReWa Email to Fred Young re: PCB Expenses FYoung 0016.
- mm. Pltf's Ex. 85: IRF Claim Notes SCBCB 001388-1401.
- nn. Pltf's Ex. 89: 9/13/2013 FAQ on PCBs REWA v. IRF_012688-012689.
- oo. Pltf's Ex. 91: ReWa PCB Sampling Results.¹

¹ Pursuant to Rule 1006, SCRE, this spreadsheet constitutes a summary of voluminous underlying data. The underlying data is admissible into evidence, and has been either produced

- pp. Pltf's Ex. 94: 4/25/2014 AECOM Final Summary Report REWA AECOM_009519-9574.
 - qq. Pltf's Ex. 99: Summary of PCB Expenses Spreadsheet REWA v. IRF_041051-41056.
 - rr. Pltf's Ex. 100: PCB Expenses Spreadsheet.²
 - ss. Pltf's Ex. 101: Regular Cost Calculation REWA v. IRF_041322.
 - tt. Pltf's Ex. 106: Photographs – 106.11, 106.14, 106.30, 106.60, 106.61, 106.66, 106.74, 106.83, 106.93.
25. Defendant's Trial exhibits:
- a. Def.'s Ex. 13: Letter from John Devlin to Marcus Manos dated October 13, 2016 (Exhibit 10 to ReWa/Dennis Deposition).
 - b. Def.'s Ex. 16: Regular Cost of Processing Solids for Land Application Exhibit 16 to ReWa/McManus Deposition.
 - c. Def.'s Ex. 27: Invoice from A&B Environmental – washing out tank number 7.

Email communication with court

- 26. 02/17/2020 Devlin email to Hermann.
- 27. 02/21/2020 Hermann email to all counsel.
- 28. 02/26/2020 Hanks email to all counsel.
- 29. 02/27/2020 Lindemann email to Judge Simmons.
- 30. 02/27/2020 Judge Simmons email to Lindemann.
- 31. 02/27/2020 Lindemann email to Judge Simmons.

[SIGNATURE PAGE ATTACHED]

(see REWA v. IRF_020138-40844) or made available for examination by the IRF. REWA v. IRF_012741-12786

² Pursuant to Rule 1006, SCRE, this spreadsheet constitutes a summary of voluminous underlying data. The underlying data is admissible into evidence, and has been either produced (see REWA v. IRF_000661-011715, REWA v. IRF_012787-19989) or made available for examination by the IRF. REWA v. IRF_041057-41100

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November 16, 2020
Greenville, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas
Charles B. Simmons, Jr., Master-in-Equity

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Renewable Water Resources, Respondent,

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Insurance Reserve Fund, a Division of the State Fiscal
Accountability Authority of South Carolina Appellant.

PROOF OF SERVICE

I hereby certify that I have served a copy of the Respondent's Initial Brief and Designation of Matter by electronic mail (see attached sent email) on the Appellant's counsel of record set out below:

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Miles E. Coleman

Counsel for Respondent Renewable Water Resources

November 16, 2020
Greenville, South Carolina

Miles Coleman

From: Miles Coleman
Sent: Monday, November 16, 2020 5:09 PM
To: 'andrew@ldlawsc.com'; 'john.devlin@devlinparkinson.com'
Cc: William Brown; Rivers Stilwell; Katie Towery
Subject: ReWa v. IRF (Case No. 2020-000669) -- Respondent's Initial Brief and Designation
Attachments: 2020.11.16 -- ReWa v. IRF -- ReWa's Designation of Matter for the Record on Appeal.pdf; 2020.11.16 -- ReWa v. IRF -- ReWa's Initial Brief.pdf

Counsel:

Pursuant to Rule 208(a)(2), SCACR, and section (g)(3) the Supreme Court's Order dated May 29, 2020, please find attached for service upon you a copy of the Initial Brief of Respondent ReWa and ReWa's Designation of Matter to be Included in the Record on Appeal. These documents will be filed with the Court of Appeals by electronic mail later today.

Miles



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November 16, 2020

Via electronic filing

The Honorable Jenny Abbott Kitchings
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SC Court of Appeals

RE: *Renewable Water Resources v. Insurance Reserve Fund*
Appellate Case No. 2020-000669
Trial Court Case No. 2016-CP-23-5905
Our File No. 006769.01520

Dear Ms. Kitchings:

Pursuant to Rule 208(a)(2), SCACR, and sections (c)(6), (d), (f), and (g) of the Supreme Court's Amended Order dated May 29, 2020, please find enclosed the Initial Brief of Respondent Renewable Water Resources, Respondent's Designation of Matter, and a Certificate of Service of same, all of which are submitted for electronic filing in the above-referenced matter. Pursuant to the aforementioned Supreme Court Amended Order, only a single copy of each PDF is being electronically filed, and no additional copies will be filed unless the Court requests otherwise.

We ask also that, at your convenience, you return a copy of the attached documents to us bearing the Court's file stamp. Should you have any questions pertaining to these filings, or if we can provide any other information, please do not hesitate to let us know.

Very truly yours,



Miles E. Coleman

Enclosures

cc: Andrew F. Lindemann, Esq.
John R. Devlin, Jr., Esq.