

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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May 11 2021

SC Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas
Maite D. Murphy, Circuit Court Judge

Case No. 2019-001719

Innovative Waste Management Inc., Respondent,

v.

Crest Energy Partners, GP, LLC, Dunhill Products GP, LLC, Henry Wuertz, Innovative Waste Management, Inc., Crest Energy Partners LP, Dunhill Products LP, Edward H. Girardeau, C. Russ Lloyd, Defendants, Of Whom,

Crest Energy Partners GP, LLC, Crest Energy Partners LP, Dunhill Products, LP, and Henry Wuertz, are the Appellants.

**MOTION FOR LEAVE TO FILE
THIRD AMENDED RECORD ON APPEAL**

APPELLANTS, through undersigned counsel, hereby move this Honorable Court for an Order allowing Appellants leave to file a Third Amended Record on Appeal.

The Record on Appeal was initially served (and filed) on January 5, 2021. On February 23, 2021, the Court granted Appellants' Motion to consider that service timely. The parties subsequently agreed that the Record should be amended, and an Amended Record on Appeal was served and filed on March 9, 2021. The Court granted Appellants leave to serve and file an Amended Record on Appeal, by consent, on March 12, 2021. Thereafter, as the parties were preparing their final briefs, additional errors were discovered in the Record on Appeal, which were

corrected by agreement of counsel. Pursuant to instructions from the Clerk of Court's office, Appellants' counsel served and filed a Second Amended Record on Appeal, noting in the transmittal letter to the Court that "all parties agree that the Second Amended Record on Appeal that has now been filed is the operative Record on Appeal." That letter also requested advise on the filing of a Second Motion to Amend. By Letter dated April 29, 2021, the Clerk of Court noted that the Second Amended Record on Appeal was deficient in that it exceeded the number of pages per volume stated in Rule 267(d), SCACR. The Clerk therefore directed the undersigned to file this Motion to serve and file an amended Record on Appeal.

As noted in Appellants' April 2, 2021 letter, all parties consented to the substance of the Second Amended Record on Appeal. Given that the parties were filing electronic versions of the Record, rather than the usual bound paper versions, the undersigned did not believe that the basis for Rule 267(d) applied and apologizes to the Court for his error. The undersigned shall serve separate volumes of a proposed Third Amended Record on Appeal and, once approved by Respondent's counsel, shall file the same with the Court.

For all the reasons stated herein, Appellants respectfully request that this Honorable Court grant Appellants leave to once again Amend the Record on Appeal, and thereupon deem the Third Amended Record on Appeal as the Operative record on Appeal.

RESPECTFULLY SUBMITTED:

s/ David B. Marvel
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May 10, 2021
Charleston, South Carolina