

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered this ____ day of _____, 2013, between the Winyah Rivers Foundation, Inc. d/b/a the Waccamaw Riverkeeper (the “Riverkeeper”), the South Carolina Coastal Conservation League, and the Southern Alliance for Clean Energy (“SACE”) (collectively, the “Conservation Groups”), on the one hand, and the South Carolina Public Service Authority (“Santee Cooper”), on the other, and their respective successors, predecessors, assigns, affiliates, parent companies, subsidiaries, shareholders, officers, directors, agents, and employees.

WHEREAS, there is now pending a lawsuit brought by the Conservation Groups against Santee Cooper in the Court of Common Pleas for Horry County, Civil Action No. 2012-CP-26-4462, alleging that Santee Cooper has violated the South Carolina Pollution Control Act, S.C. Code Ann. §§ 48-1-10 *et seq.*, by allowing contaminated water from the ash ponds at Santee Cooper’s Grainger facility in Conway, S.C., to enter the environment without a permit (the “State Action”), and Santee Cooper has denied the allegations;

WHEREAS, there is now pending a lawsuit brought by the Riverkeeper against Santee Cooper in the United States District Court for the District of South Carolina, Civil Action No. No. 2:13-cv-001144-CDN, alleging that Santee Cooper has violated the federal Clean Water Act in various respects at the Grainger facility (the “Federal Action”), and Santee Cooper has not responded to that complaint but denies the allegations therein;

WHEREAS, pursuant to a settlement agreement between the South Carolina Department of Health and Environmental Control (“DHEC”) and the Riverkeeper and SACE, DHEC has issued a proposed new NPDES permit for the Grainger facility, Permit # SC0001104 (the “Permit”), and DHEC is accepting comments from the public on the Permit;

WHEREAS, Santee Cooper has submitted to the South Carolina Department of Health and Environmental Control (“DHEC”) a proposal for closing the ash ponds at issue in the above-named lawsuits, and one or more of the Plaintiffs have objected to and/or commented on Santee Cooper’s proposal;

WHEREAS, all of the foregoing matters relate to ash ponds known as Ponds 1 and 2 at the site of the former coal-fired power plant known as the Dolphus M. Grainger Generating Station on the Waccamaw River in or near Conway, South Carolina (hereinafter “Grainger”);

WHEREAS, the Conservation Groups and Santee Cooper (the “Parties”) desire to enter into this Agreement in order to settle the State Action, the Federal Action, and all other disputes between them regarding the Grainger facility, as set out herein;

NOW THEREFORE, in consideration of the promises and other consideration contained in this Settlement Agreement and Release (“Agreement”), the adequacy of which are hereby acknowledged, the Parties agree as follows:

1. Undertakings by Santee Cooper., Santee Cooper agrees to implement the following actions at and with respect to Grainger:
 - (a) Santee Cooper shall deposit no more coal ash or other coal combustion materials at Grainger.
 - (b) No later than December 31, 2023, Santee Cooper shall excavate (i) all the coal ash from Ponds 1 and 2 at Grainger, (ii) one (1) foot of underlying soil beneath the ash, and (iii) additional underlying soil if required by DHEC; and shall remove all the excavated ash and soil from the Grainger site to be sold, recycled, or placed in a Class 3 or better landfill.
 - (c) Santee Cooper will make good faith efforts to complete the excavation and removal of the coal ash and soil from the Grainger site by December 31, 2020.

(d) Santee Cooper and/or parties with which it will contract shall timely apply for all permits and approvals necessary to facilitate the removal of coal ash and soil from Grainger as soon as practicable.

(e) Within thirty (30) days of the date that this Agreement is fully executed, Santee Cooper will notify DHEC that it is withdrawing its previously submitted recommendation of a closure option for the Grainger coal ash Ponds and intends to amend its previously-submitted Grainger closure plan in a manner consistent with the terms of this Agreement.

(f) Santee Cooper shall sample groundwater at the Grainger site semi-annually using the monitoring wells, protocols, and methodology it currently employs in its semi-annual reports to DHEC, and in accordance with the draft of the Permit that was published for public comment on August 30, 2013, and the Conservation Groups stipulate that such testing shall suffice for purposes for this Agreement; in the future, if modifications or changes in monitoring wells, protocols, or methodology are approved or directed by DHEC (i) the Conservation Groups reserve the right to comment on and/or challenge such modifications or changes, and (ii) any such modifications or changes shall not constitute or result in non-compliance with this provision, and Santee Cooper shall be deemed in compliance so long as its sampling wells, protocols, and methodology accord with the Permit and subsequent alterations thereto.

Additionally, Santee Cooper shall submit the results of this semi-annual testing to DHEC and provide a copy to counsel for the Conservation Groups. The reports required by this provision shall continue until two (2) years after removal of all the coal ash and soil as set out in (b) above.

(g) Santee Cooper shall provide counsel for the Conservation Groups copies of permit applications that it submits to DHEC to carry out the removal of the coal ash and soil and other terms of this Agreement.

(h) When it amends the closure plan that it has submitted to DHEC, Santee Cooper shall include a proposal to provide status reports to DHEC every six (6) months regarding the amount of coal ash and soil removed from the Grainger site, with copies to be provided to counsel for the Conservation Groups.

(i) Santee Cooper will provide counsel for the Conservation Groups with a copy of any reports submitted to DHEC regarding spills or releases of coal ash into the Waccamaw River and any breaks or breaches in the dikes of Pond 1 or Pond 2, in the event of any such incidents.

(j) Santee Cooper will provide counsel for the Conservation Groups copies of Discharge Monitoring Reports (“DMRs”) submitted to DHEC regarding Grainger.

(k) If in two consecutive sample periods, the Arsenic concentration in groundwater increases from the prior period’s measurement in any monitoring well sampled in accordance with paragraph 1(f) above, then Santee Cooper shall report the event to DHEC and confer with DHEC on what remedial action is needed, if any. No reporting shall be required, however, for any concentrations below ten (10) ppb.

(l) Santee Cooper shall close the Grainger coal ash ponds in accordance with a closure plan to be approved by DHEC.

2. Undertakings of the Conservation Groups. The Conservation Groups agree as follows:

(a) The Riverkeeper shall file a notice of dismissal of the Federal Action and the Conservation Groups hereby covenant not to sue Santee Cooper, its directors, officers, employees, agents, and representatives in connection with the facts and claims alleged in the Federal Action.

(b) The Conservation Groups shall execute a stipulation or consent order dismissing the State Action.

(c) The Conservation Groups, on behalf of themselves and their successors, predecessors, assigns, affiliates, parent companies, subsidiaries, officers, directors, agents, and employees, hereby completely release and forever discharge Santee Cooper, its predecessors, successors, assigns, affiliates, directors, officers, employees, and agents from all past, present, and future claims, demands, obligations, actions, and causes of action, whether now known or unknown, including, but not limited to, claims for injunctive relief, personal injury, property damage, economic loss or expense, attorneys' fees, penalties, sanctions, and consequential damages of any nature whatsoever, whether based on statute, tort, subrogation, contract, quasi-contract, or any other theory of recovery or responsibility (i) for the facts alleged and the claims that were set forth in the Complaints and for facts and claims related to Grainger that could have been alleged and set forth in the Complaints; (ii) for any alleged contamination of groundwater at Grainger; (iii) for any allegation relating to migration or movement of that groundwater into the Waccamaw River, into wetlands, or under or onto other properties; and (iv) for management of coal ash in compliance with this Agreement or other actions to expedite removal of coal ash from the Ponds (collectively, the "Released Claims").

(d) The Conservation Groups shall not comment on, object to, or otherwise contest, appeal, or sue in connection with any of the following:

(i) The closure plan for Grainger Ponds 1 and 2, provided that plan is consistent with the terms of this Agreement;

(ii) The Permit, except for the limited purposes described in paragraph 1 (f) above;

(iii) Any and all permits and approvals necessary to effectuate this Agreement, close the Grainger site consistent with and as provided in this Agreement, and facilitate the removal and recycling of coal ash and soil to be removed from Grainger Ponds 1 and 2.

(e) The Conservation Groups expressly acknowledge that other, new, or supplemental information or causes of action that may now exist or may arise or become known in the future could cause them to evaluate the facts or their position(s) differently than they have been evaluated to date. The Conservation Groups expressly agree and assume the risk that if facts or the law are newly discovered, change, or are found to be different than they now believe them to be, this Agreement shall nevertheless remain in full force and effect.

(d) The Conservation Groups stipulate that their members are not authorized to take action contrary to or inconsistent with this Agreement on behalf of or in the name of the Conservation Groups.

3. Dismissal of the State Action. The Conservation Groups and Santee Cooper shall file a consent order or stipulation of dismissal of the State Action, with prejudice.

4. Attorneys' Fees, Costs, and Expenses. The Parties agree that each party shall bear its own attorneys' fees' costs, and expenses.

5. Force majeure. The deadlines set forth in Paragraph 1 shall be extended by an event of *force majeure*, which shall mean any event arising from causes beyond the control of Santee Cooper that causes a delay in or prevents the performance of an Undertaking, including but not limited to (a) acts of God, fire, war, insurrection, civil disturbance, labor disputes, labor or material shortages, or explosion; (b) adverse weather conditions that could not be reasonably anticipated causing unusual delay in transportation and/or field work activities; (c) restraint by

court order or order of public authority; and (d) inability to obtain any necessary authorizations, approvals, permits, or licenses. Santee Cooper shall promptly notify the Conservation Groups if an event of *force majeure* has occurred.

6. Authority of DHEC. The Parties acknowledge that several of Santee Cooper's undertakings set forth above require approvals and/or permits. Santee Cooper agrees to apply timely and completely for any required approvals and/or permits and to provide such information as may be reasonably requested to issue the approvals and/or permits. The Conservation Groups acknowledge that if Santee Cooper has exercised appropriate efforts to submit a timely and complete application or request for approval then any delay, failure, or refusal to issue required approvals and/or permits shall be considered *force majeure*.

7. Warranty of Capacity and Authority to Enter into Agreement and Execute Release. The Parties represent that they have the legal capacity and authority to enter into this Agreement and execute the release contained herein, and that each of the persons executing this Agreement on behalf of the party is authorized to do so.

8. No Third Party Beneficiaries. This Agreement is not for the benefit of any person other than the Parties and gives no rights or remedies to any third parties.

9. Entire Agreement. This Agreement contains the entire understanding and agreement between the Parties with respect to the matters referred to herein. No other representations, covenants, undertakings, or other prior or contemporaneous agreements, oral or written, respecting such matters, which are not specifically incorporated herein, shall be deemed in any way to exist or to bind any of the Parties. The Parties acknowledge that all terms of this Agreement are contractual and not merely a recital.

10. No Admission of Liability. The Parties agree that nothing herein is intended as or should be construed as an admission of liability on any theory, that Santee Cooper denies any such liability, and that no past or present violation of law on the part of Santee Cooper shall be implied by anything contained in this Agreement. Furthermore, this Agreement and the settlement that it embodies are inadmissible in state and federal courts pursuant to Rule 408 of the South Carolina Rules of Evidence and Rule 408 of the Federal Rules of Evidence. This Agreement is admissible in any action to enforce this Agreement.

11. Modification by Writing Only. The Parties agree that this Agreement may be modified only by a writing signed by all Parties and that any oral agreements are not binding until reduced to writing and signed by the Parties.

12. Binding upon Successors and Assigns. The Parties agree that this Agreement is binding upon their successors, assigns, and members.

13. Severability. The Parties agree that if any provision of this Agreement should become inconsistent with present or future law governing the subject matter of the provision, such provision shall be deemed to be rescinded or modified in accordance with any such law, and the other provisions of this Agreement shall continue and remain in full force and effect, except that (a) the Conservation Groups' undertakings in paragraphs 2(a), (b), and (c) are material terms of the Agreement, without which Santee Cooper would not have made and entered into this Agreement, and (b) Santee Cooper's undertakings in paragraphs 1(a) and (b) are material terms of the Agreement, without which the Conservation Groups would not have made and entered into this Agreement, and if these material terms, or any of them, should be deemed to be unenforceable, then this Agreement is voidable at the option of Santee Cooper or the Conservation Groups, respectively.

14. Execution in Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original Agreement, and all of which shall constitute one agreement to be effective as of the Effective Date. Photocopies or facsimile copies of executed copies of this Agreement may be treated as originals. A duly authorized attorney may sign on behalf of a corporate entity.

15. Acknowledgement that Agreement Shall Not be Construed Against any Party. This Agreement is the result of a mediation and arms' length negotiations between the Parties, each of which was represented by counsel. The Parties agree that no one party drafted this Agreement and that this Agreement shall not be construed in favor of or against any party.

16. Notice to Parties. Notices required or authorized to be given pursuant to this Agreement shall be sent to the persons at the addresses set out below. Notices are effective upon receipt. Reports and other materials required by this Agreement to be sent by Santee Cooper may be sent by Santee Cooper to the Conservation Groups by e-mail. All other notices may be delivered in person or sent by U.S. Mail or an overnight delivery service. Either party may change the persons and/or addresses for notice by providing notice to the representative(s) of the other party set out below.

For the Conservation Groups:

Frank S. Holleman III, Esq.
Southern Environmental Law Center
601 W. Rosemary Street, Suite 220
Chapel Hill, North Carolina 27516
fholleman@selcnc.org

For Santee Cooper:

Elizabeth Henry Warner
Vice President, Legal Services and Corporate Secretary
Santee Cooper
1 Riverwood Drive

Moncks Corner, South Carolina 29461

17. Recitals Incorporated into Agreement. The Parties agree that the Recitals are hereby incorporated into the Agreement.

18. Governing Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of South Carolina.

19. Effective Date. This Agreement shall become effective immediately following execution by all of the Parties listed below.

SIGNATURE PAGES ATTACHED

Executed this 19th day of November by:

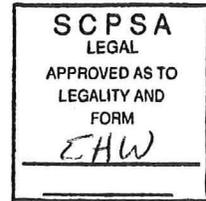
SOUTH CAROLINA PUBLIC SERVICE AUTHORITY

(SANTEE COOPER)

Lonnie N. Carter

By: Lonnie N. Carter

Its: President and Chief Executive Officer



Executed this _____ day of _____ by:

WINYAH RIVERS FOUNDATION, INC., D/B/A WACCAMAW
RIVERKEEPER

By: Christine J. Ellis CHRISTINE J. ELLIS

Its: WACCAMAW RIVERKEEPER

Executed this 15th day of November by:

SOUTH CAROLINA COASTAL CONSERVATION LEAGUE

By: Mary Kayn Cone

Its: NORTH COAST OFFICE DIRECTOR

Executed this 29 day of October by:

SOUTHERN ALLIANCE FOR CLEAN ENERGY

By: Ulla-Britt Reilly

Its: High Risk Program Director