

STATE OF SOUTH CAROLINA)

COUNTY OF KERSHAW)

IN RE: SUNNY HILL POND,)
CAMDEN, S.C.)

SOUTH CAROLINA DEPARTMENT)
OF HEALTH AND ENVIRONMENTAL)
CONTROL,)

Plaintiff,)

v.)

John C. West, Sr., Sheddie Tetterton,)
Alice B. Ford, Marion and Elizabeth)
Outlaw, Bebe R. Bailey, Michael Y. Horton,)
Wade A. Green, Fred and Sheridan Oxley,)
Tommy S. Granger, Stephen and Elizabeth)
Shataka, Colonel Hudson R. and Ruth L.)
Hurst, Marquis B. and Shirley C. Reger,)
Lane Garrity, John M. and Annah J. Deal,)
Wendle W. and Cora L. Wolfe, Melvin C.)
and Beverly Kaye Harris, William E. and)
Barbara H. Rush, Jim Fike, James H. and)
Frances A. Montgomery, George T. and)
Margaret S. Cracraft, Gary S. and Leslie P.)
Strozyk, Timothy L. and Paula T. Bordner,)
FCCA LLC c/o Anthony M. and Sarah C.)
Messier, James E. Sullivan c/o Randy and)
Bonnie Sullivan)
including his or her spouse, if any there be,)
and if he, she, or they be dead (as parties in)
interest whose names are unknown) and)
children and heirs at law or distributees of)
the above-named, and all persons claiming)
any right, title, estate, interest in or lien upon)
lots bordering upon Sunny Hill Pond (also)
known as Upper Sunnyhill Pond), Camden,)
SC, any unknown adults being as a class)
designated as John Doe and any unborn)
infants or persons under a disability being)
as a class designated as Richard Roe,)

South Lake Homeowners Association, Inc.,)
a South Carolina corporation, and)

South Carolina Department of)
Transportation,)

Defendants.)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.97-CP-28-0097

**SETTLEMENT
AGREEMENT**

JOYCE McDONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

01 FEB -6 AM 11:47

FILED FOR RECORD

I hereby certify that the foregoing is a true and exact copy of original on file in this office.

Joyce McDonald

Joyce McDonald
Clerk of Court
Kershaw County, S. C.

This matter came before the Court on October 3, 2000, on complaint of the South Carolina Department of Health and Environmental Control (DHEC) seeking judicial determination of the party or parties who are responsible for operation and maintenance of the dam impounding the Upper Sunnyhill Pond located near Camden, SC.

The parties submitted a verbal settlement to the Court. After questioning all parties either in their individual capacity or through counsel, I conclude that the proposal is fair and equitable and will resolve the dispute among them. Therefore, with the consent of the parties, it is hereby ordered that :

1. Small trees having trunk diameter at the ground of six inches or less, and other undergrowth on the dam, will be removed.

a) To this end, South Lake Homeowners Association will contribute \$1,000; the residents of the upper Sunnyhill Pond will contribute \$1,000; and defendants West, Tetterton, and Ford will contribute a total of \$2,000; said funds to be paid to Robert J. Sheheen, Esquire, within fourteen days of the date of this order to be held in escrow for payment of the expense of clearing the dam.

b) The South Carolina Department of Transportation will remove small trees and undergrowth within its right of way adjacent to SC 560.

2. The homeowners having lots on the upper Sunnyhill Pond will establish a homeowners' association in corporate form issuing such shares and having such bylaws as may be agreeable to them which will notify the Department of Health and Environmental Control of its acceptance of the responsibility for receiving and responding to DHEC's inspection reports; maintaining the dam; and establishing and maintaining an emergency notification plan. A plan for establishing this association will be provided to all parties within fourteen days of the date of


this order.

3. Once formed, the upper Sunnyhill Pond homeowners' association will assume control of the dam. Defendants West, Tetterton, and Ford will deliver quit-claim deeds transferring whatever ownership interest they have in the dam to the homeowners' association.
4. Once the homeowners' association is formed, DHEC will deliver releases from any further responsibility under the Dams and Reservoirs Safety Act in appropriate form to defendants West, Tetterton, and Ford in their personal and corporate capacities.
5. South Lake Homeowners' Association shall grant the upper Sunnyhill Pond homeowners' association or its contractors reasonable access to the lower slope of the dam to inspect and operate the dam as may be necessary.
6. Once the trees and undergrowth are removed from the dam in accordance with paragraph 1, DHEC will inspect the dam in accordance with its normal procedures. DHEC will notify the homeowners' association if, after inspecting the dam, the inspection schedule can be changed from annual to triennial inspections.

This order inures to the benefit of all parties, and is binding on all parties.

AND IT IS SO ORDERED.

1/31 ^{QAB}
2000
Camden, SC
Columbia


James R. Barber, III
Judge, Fifth Judicial Circuit