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November 2, 2009

***By Hand***

Patricia L. Harrington, Clerk  
Supreme Court of Virginia  
100 North 9th Street, 5th Floor  
Richmond Virginia 23219

***Re: Johnson v. Virginia State Corporation Commission et al.  
Record No. 091703***

Dear Ms. Harrington:

Enclosed for filing please find an original and four (4) copies of Motion to Dismiss Appeal of Respondents Fluvanna County Board of Supervisors, Louisa County Board of Supervisors and James River Water Authority, Objection to Appellant's Designation of the Record and Objection of Appellees to Motion to Increase Record. I have enclosed an additional copy of each brief which I would appreciate your file-stamping and returning via our courier.

Please contact me if you have any questions. With best regards, I am

Very truly yours,

  
Robert L. Hodges

RLH/afh

Enclosures

cc: Douglas Robert Johnson  
Jonathan B. Orne, Esq.  
Greg L. Hoffman, Esq.  
Phillip R. de Haas  
Frederick W. Payne, Esq.  
William G. Broaddus, Esq.  
Kurt J. Krueger, Esq.  
Frederick W. Payne, Esq.

IN THE

# Supreme Court of Virginia

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RECORD NO. 091703

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DOUGLAS ROBERT JOHNSON,

*Petitioner-Appellant,*

v.

FLUVANNA COUNTY BOARD OF SUPERVISORS  
and  
LOUISA COUNTY BOARD OF SUPERVISORS  
and  
JAMES RIVER WATER AUTHORITY,

*Respondents-Appellees.*

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**MOTION TO DISMISS APPEAL OF RESPONDENTS FLUVANNA  
COUNTY BOARD OF SUPERVISORS, LOUISA COUNTY BOARD OF  
SUPERVISORS AND JAMES RIVER WATER AUTHORITY**

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From the State Corporation Commission

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*Counsel for Respondent Fluvanna  
County Board of Supervisors*

## MOTION TO DISMISS

Respondents Fluvanna County Board of Supervisors, Louisa County Board of Supervisors, and James River Water Authority, by counsel, pursuant to Virginia Supreme Court Rule 5:4(a), move to dismiss this appeal for the reasons set forth in the accompanying memorandum of law.

Respectfully Submitted,

FLUVANNA COUNTY BOARD OF SUPERVISORS  
LOUISA COUNTY BOARD OF SUPERVISORS  
JAMES RIVER WATER AUTHORITY

By Counsel:



A handwritten signature in black ink, appearing to be 'R. H. W.', is written over a horizontal line. A long, vertical flourish extends downwards from the end of the signature.

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## MEMORANDUM OF LAW

Appellees Fluvanna County Board of Supervisors, Louisa County Board of Supervisors, and James River Water Authority, by counsel, move to dismiss this appeal on the grounds that the appellant, Douglas Robert Johnson, has failed to take the actions required to perfect jurisdiction in this Court.

On October 13, 2009, the Clerk of this Court issued a certificate of appeal. A true and correct copy of the certificate issued is annexed to this memorandum as Exhibit 1. The condition set forth in the certificate was the posting of an appeal bond in the amount of \$500 within 10 days of the issuance of the certificate, or by October 23, 2009.

In addition, under Rule 5:21(i), appellant was required to file with the Court his assignments of error within 10 days of the issuance of the certificate. See Va.Sup.Ct.R. 5:21(i). Pursuant to Rule 5:25, the Court will not take notice of any error for which no assignment of error was filed and no error not so assigned will be admitted on the ground for reversal of the decision below. *Id.*

The filing of the cost bond required by Rule 5:24 and the certificate of appeal is jurisdictional. It is not a defect correctable under Rule 5:24(b), but instead is a jurisdictional defect requiring dismissal of the appeal on

