



Bureau of Water  
April 26, 2019

**CERTIFIED MAIL 9214 8969 0099 9790 1414 6838 24**  
**RETURN RECEIPT REQUESTED**

City of Denmark  
Attn: Dr. Gerald Wright, Mayor  
4768 Carolina Highway  
Denmark, SC 29042

RE: **Notice of Alleged Violation/Notice of Enforcement Conference**  
City of Denmark  
Public Water System No. 0510002 (PWS)  
Bamberg County

Dear Mayor Wright:

Please find enclosed a Notice of Alleged Violation/Notice of Enforcement Conference for the City of Denmark.

This Notice is based upon failure to properly operate and maintain the PWS.

The scheduled enforcement conference will provide the City of Denmark and the South Carolina Department of Health and Environmental Control the opportunity to discuss the alleged violation. Please plan to attend the conference or ensure that a representative authorized to speak on behalf of the City of Denmark attends.

Also enclosed is a document entitled *An Overview of the Administrative Enforcement Process*. If you have any questions regarding this matter, please contact me by e-mail at [teraokjc@dhec.sc.gov](mailto:teraokjc@dhec.sc.gov) or by telephone at (803) 898-3926.

Sincerely,

A handwritten signature in blue ink that reads "Jaime Teraoka".

Jaime Teraoka  
Drinking Water Enforcement Section

Enclosures

cc: Heyward Robinson, City Administrator (via email)  
Midlands BEHS Aiken office

South Carolina Department of Health & Environmental Control  
Office of Environmental Quality Control  
August 2016

*An Overview of the Administrative Enforcement Process*

*This document is provided as guidance and should not be relied upon as legal advice.*

Introduction

This information sheet has been prepared to help you better understand the SC Department of Health and Environmental Control's (Department) enforcement process. Since you received a Notice of Alleged Violation/Notice of Enforcement Conference (NOAV/NOEC), we want you to adequately prepare to meet with staff to resolve this matter of regulatory concern. It is the Department's foremost goal is to assist you in maintaining full compliance. Enforcement is one tool to help ensure that obligations to safeguard the environment are met through strict adherence to regulations and environmental permit requirements, terms, and conditions are fulfilled. The following are answers to questions most frequently asked by people involved in this process.

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What is a Notice of Alleged Violation/Notice of Enforcement Conference (NOAV/NOEC)?

The NOAV/NOEC is the first step in the administrative enforcement process. When it is discovered that an environmental law or regulation may have been violated, a NOAV/NOEC may be issued. The notice outlines the Office of Environmental Quality Control's (EQC) findings, identifies the law, regulation, or permit requirement EQC believes was violated, and invites the responsible party (Respondent) to attend an enforcement conference. The Respondent may accept EQC's findings and elect not to attend a conference, in which case an order is drafted, if appropriate, for the Respondent's review and signature.

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Why is an enforcement action necessary?

There are different factors considered by EQC staff when deciding to initiate an enforcement action. Most fall within the following: 1) the specific type of alleged violation identified may require EQC to take a formal enforcement action, 2) the alleged violation is serious or a threat to public health or the environment,

or 3) the alleged violation has not been corrected within a reasonable period of time.

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What is an enforcement conference and what can I do to prepare for it?

The enforcement conference is a voluntary, informal meeting between EQC staff and the Respondent. The NOAV/NOEC you received contains a summary of known issues of regulatory concern and provides the basis for discussion. It is important to be fully prepared to present any information that will enable staff to make a fair and sound decision concerning the allegations. You should also be prepared to report any corrective action(s) taken or planned.

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Who should I bring to the conference and who from EQC will be present?

People who are most familiar with the issues and who have decision-making authority on behalf of the Respondent should plan to attend. You may have legal and/or technical representation if you choose. An enforcement project manager, regional staff, technical support, and other compliance personnel involved with the matter will represent the Department. A staff attorney representing EQC is generally not in attendance. However, if you choose to have legal counsel present, you are asked to notify the Department at least five days prior to the conference and the Department may decide to have agency legal counsel attend. Also, if the Department determines it is necessary for legal counsel to be present you will be notified at least five days prior to the conference. The enforcement conference is closed to the public and media per a DHEC Board approved policy.

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What can I expect to happen at the enforcement conference and what may result?

As the Respondent, you can expect a fair evaluation of the circumstances surrounding the issues of concern. Staff will ask questions and determine a reasonable response based upon consideration of the facts. After the conference, staff will review the information gathered and decide on one of four possible outcomes: 1) the Department determines that the event is not a violation and is dismissed; 2) the Department determines the violation is properly alleged, but there is justification to resolve the matter without the issuance of an order; 3) the Department determines the violation is properly alleged, and you are given the opportunity to resolve the issue by entering into a Consent Order with the Department; or 4) the Department determines the violation is properly alleged and an Administrative (unilateral) Order is issued.

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What is a consent order?

A Consent Order is a legally binding, enforceable document, with terms and conditions agreed upon by you and the Department. In signing a Consent Order, you waive your right to an administrative appeal, but the additional time and costs associated with an administrative hearing and other potential court-related costs are avoided.

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What is the purpose of a civil penalty; how is the penalty amount determined; and who gets the money?

Civil penalties are issued for the violation of federal and state environmental laws. The decision to assess a penalty depends upon the type of violation alleged and other factors. Among other factors, civil penalties are intended to deter future noncompliance and eliminate any economic incentive for noncompliance. The penalty is calculated in accordance with the Department's Uniform Enforcement Policy. The amount of the civil penalty is designed to reflect the frequency, duration, and severity of the violation(s). Some other factors may be considered, such as compliance history, degree of negligence or willfulness, and economic benefit gained through noncompliance. The money collected is either sent to the State's General Fund, or a portion to the county in which the violation occurred, or otherwise dispersed as required by state law.

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If I have corrected the noted violations, why would a civil penalty still be assessed?

To promote fairness and consistency within the administrative enforcement process, civil penalties are typically assessed for certain violations. However, if you demonstrate good faith efforts to promptly correct the alleged violation, staff will favorably consider these actions when calculating any penalty. Other factors that may affect the penalty amount include measures taken to prevent recurrence and other mitigating factors.

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Why should I attempt to resolve the enforcement action with a consent order?

There are often significant savings in time and money when the parties in an enforcement action can reach an agreed upon resolution. If, however, an agreement to the terms, conditions and/or any civil penalty proposed in a Consent Order cannot be reached, the Department may issue an Administrative Order (unilateral) without your consent. The Administrative Order would include findings of fact, conclusions of law, and contain specific requirements addressing the violation(s) and the civil penalty may be higher based on factors under consideration.

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If an agreed upon resolution is not reached and an order is issued without my consent, what are my options?

A Respondent may seek further review as set forth in the Notice of Appeal Procedure which is on the Department's Website at;

<https://www.scdhec.gov/sites/default/files/docs/Docs/Environment/PublicNotice/7040.pdf>



**THE STATE OF SOUTH CAROLINA  
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

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**IN RE: CITY OF DENMARK  
PUBLIC WATER SYSTEM NO. 0510002  
BAMBERG COUNTY**

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**NOTICE OF ALLEGED VIOLATION/NOTICE OF ENFORCEMENT CONFERENCE**

The City of Denmark is hereby notified that an enforcement conference has been scheduled for Tuesday, May 7, 2019 at 1:30 pm in the offices of the Bureau of Water, 2600 Bull Street, Columbia, SC 29201 in Room 4011. Representatives of the City of Denmark have the opportunity to be present at this conference to discuss the alleged violation of the State Safe Drinking Water Act and State Primary Drinking Water Regulation cited herein.

Representatives of the City of Denmark may be accompanied at the conference by legal and/or technical counsel. The possibility of a Consent Order may be discussed.

This Notice is based upon the following findings of the Department:

1. The City of Denmark (Owner) owns and is responsible for the proper operation and maintenance of the public water system No. 0510002 (PWS) that serves the customers of the City of Denmark located in Bamberg County, South Carolina.
2. The PWS consists of three (3) permanent wells (G05109 - Well 2 Voorhees, G05162 - Well 5 Acacia Street, and G05163 - Well 6 W. Voorhees), one (1) source of purchased groundwater that serves as an emergency connection (Bamberg Public Works), three (3) elevated storage tanks (Nibco, Voorhees, and Bamberg County Industrial Park), one thousand five hundred two (1,502) taps, serves a population of approximately five thousand six hundred (5,600), and is classified by the Department as a community water system. Additionally, there are two (2) wells that are disconnected from the PWS (G05108 - Well 1 Brooker Center and G05110 - Well 3 Legare Street), and one (1) well that has been valved off from the PWS (G05160 - Well 4 Cox Mill).
3. On April 2, 2019, Department staff conducted a sanitary survey of the PWS which resulted in an "unsatisfactory" rating due to the following deficiencies:
  - A. Cross Connection Control was rated "unsatisfactory" in that annual testing of backflow prevention devices had not been conducted in 2018 and 2019 at the following locations: Subway Station, Olar-Denmark Middle School, and five (5) devices at Vorhees College; and there was no replacement schedule for non-testable backflow prevention devices. This deficiency was documented and the item rated "needs improvement" during the January 15, 2019 sanitary survey.
  - B. Valve & Hydrant Maintenance was rated "needs improvement" in that

malfunctional hydrants identified during the fire flow testing completed in November and December 2018 have not been repaired or replaced.

- C. Flushing Program was rated “needs improvement” in that a flushing program had not been developed and implemented in the Voorhees College master-metered distribution area. This deficiency was noted during the January 15, 2019 sanitary survey.
- D. Storage Maintenance was rated “unsatisfactory” in that a plan had not been submitted to the Department by March 4, 2019 to address the recommendations from the April 19, 2018 Voorhees elevated storage tank inspection report and the April 20, 2018 Nibco elevated storage tank inspection report; and the recommendations from these reports as well as the recommendations from the March 29, 2019 elevated storage tank inspection reports for the Voorhees and Nibco tanks had not been addressed. Additionally, a plan and schedule to address the maintenance deficiencies of the Bamberg County Industrial Park elevated storage tank had not been submitted to the Department, and the tank had not been incorporated into the Owner’s operating procedures. This deficiency was documented and the item rated “unsatisfactory” during the February 23, 2018 and January 15, 2019 sanitary surveys.
- E. Corrections From Previous Survey was rated “unsatisfactory” in that deficiencies noted during the February 23, 2018 and January 15, 2019 sanitary surveys had not been addressed.

At least one (1) of the above noted deficiencies constitutes a significant deficiency under the Ground Water Rule.

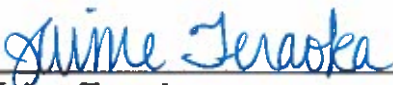
From the above findings, the Department alleges that the Owner has violated the State Primary Drinking Water Regulation as follows:

- 1. The Owner violated the State Primary Drinking Water Regulation, 4 S.C. Code Ann. Regs. 61-58.7 (2011 & Supp. 2018), in that it failed to properly operate and maintain the PWS.

THE OWNER IS FURTHER NOTIFIED that failure to attend the scheduled enforcement conference may result in the issuance of an Administrative Order without your consent. Such an Order may contain the above findings and may impose monetary penalties.

This Notice is made pursuant to the State Safe Drinking Water Act, which authorize(s) the Department to issue Orders and assess monetary penalties.

April 26, 2019

  
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Jalme Teraoka  
Drinking Water Enforcement Section  
Bureau of Water