

1978 WL 34942 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 16, 1978

*1 The Honorable Gonzales S. Waddy
Chairman
James Island Public Service District
Post Office Box 12140
James Island, South Carolina 29412

Dear Mr. Waddy:

You have inquired as to whether the South Carolina Department of Health and Environmental Control may issue a construction permit to a private water and sewer utility in derogation of a District regulation requiring all persons within the District to make use of the sewer system that is being constructed by the District.

In my opinion, the Department may not issue such a permit in the circumstances at hand. The Department, through the power vested in it by [§ 44-1-140, CODE OF LAWS OF SOUTH CAROLINA \(1976\)](#), has enacted a regulation that requires a privately owned water and sewer utility lying within a legally-constituted public service district to obtain written approval from the district prior to any action by the Department. DHEC Rule 61-57(IV)(6). Approval from the public service district is a necessity for legal development of a subdivision water supply and/or waste disposal system or extension thereof. Action by the private utility without such approval would be in violation of the Rules of the Department and subject to penalty under [§ 44-1-150, CODE OF LAWS OF SOUTH CAROLINA \(1976\)](#).

Sincerely,

Karen LeCraft Henderson
Senior Assistant Attorney General

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