

1978 WL 35186 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 26, 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:

In response to your request for an opinion from this Office as to whether or not the Department of Health and Environmental Control (DHEC) acted in violation of its Rule 61-57(IV)(6) by approving the concept of tying Bird Key and Angler Cay into the Westchester Subdivision and discharging into the Stono River, my opinion is that, upon the advice of its legal counsel, William T. Lavender, Jr., DHEC was authorized to approve that undertaking without obtaining the prior approval of the James Island Public Service District. The reason for Mr. Lavender's advice is that the requirements of Rule 61-57(IV)(6) concerning prior approval of a legally constituted public service district need not be complied with if the action proposed by the privately owned utility lies beyond the boundaries of the public service district. If the proposed action by the privately owned utility does, in fact, lie beyond the boundaries of the public service district (and I must rely on DHEC's conclusion as to that fact), then I concur with Mr. Lavender's advice.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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