



We Are Columbia

April 7, 2020

BY U.S. MAIL TO:

Chief, Water Programs Enforcement Branch
Water Protection Division
U.S Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303

Mr. Randy Stewart
SCDHEC-Bureau of Water
Water Pollution Control Division
2600 Bull Street
Columbia, SC 29201

William Weinischke, Esquire
Environmental Enforcement Section
U.S. Department of Justice
Box 7611 Ben Franklin Station
Washington, DC 20044-7611
Re: DOJ No. 90-5-1-1-09954

AND BY ELECTRONIC MAIL TO:

Nathan M .Haber, Esquire (habernm@dhec.sc.gov)
William Weinischke, Esquire (bill.weinischke@usdoj.gov)
Paul Schwartz, Esquire (Schwartz.paul@epa.gov)
Beth Drake, Esquire (beth.drake@usdoj.gov)
Carol DeMarco King, Esquire (King.carol@epa.gov)
Richard Elliott (Elliott.richard@epa.gov)

Re: *The United States of America and State of South Carolina by and
through the Department of Health and Environmental Control vs.
The City of Columbia*
Civil Action No. 3:13-2429-TLW
DOJ Case Number 90-5-1-1-00954

Dear Sirs and Madams:

Pursuant to Section XI of the above-referenced Consent Decree and in accordance with guidance in the Memorandum regarding COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program issued by EPA on March 26, 2020,

Teresa Wilson • City Manager
1737 Main Street • P.O. Box 147 • Columbia, South Carolina 29217
Office: 803.545.3026 • Fax: 803.545.3051 • Email: tbwilson@columbiasc.net



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the City of Columbia is providing notice that the COVID-19 pandemic is expected to result in delays in the performance of the City's obligations under the Consent Decree.

On March 13, 2020, the Governor of South Carolina declared a state of emergency based on a determination that COVID-19 posed an imminent public health emergency for the State. Since March 13, 2020, the Governor has issued ten additional executive orders, imposing emergency measures in response to the COVID-19 pandemic, including, but not limited to, prohibiting restaurants from providing on-premises dining, directing non-essential state workers to work from home, limiting public gatherings, closing public access to beaches and other public waters of this states, and ordering the closure of non-essential business. In these executive orders, the Governor has progressively broadened the definition of non-essential business. On April 3, 2020, the Governor issued an executive order requiring the closure of additional businesses, venues, facilities, services, and activities in the general category of retail stores.

On March 17, 2020, the Mayor and City Council declared a local state of emergency in the City. On March 26, 2020, the City Council enacted an emergency ordinance, which mandates that individuals stay at home except for work at or conducting business with establishments providing essential services. The emergency ordinance further required individuals to practice social distancing of six feet when working and conducting business in the City or participating in permissible outdoor recreational activities. The City implemented these and other measures based on the guidelines of the Center for Disease Control (CDC) and the South Carolina Department of Health and Environmental Control (SCDHEC). The City continues to evaluate measures to control the spread of infection under the guidance of the CDC and SCDHEC. Based on the current rate of spread of COVID-19 through the United States and within South Carolina, the City currently expects such measures will be necessary at least through the end of April.

The COVID-19 pandemic and the measures implemented to limit the spread of infection are expected to negatively impact the City's ability to perform its obligations under the Consent Decree in a number of ways. Obviously, the City's leadership is continuing to maintain City services and operations while anticipating potential worker shortages—both City staff and contractors. Even without such worker shortages, City wastewater improvement projects, including those required under the Consent Decree, may be hindered by the social distancing requirements

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for workers. Moreover, at least one contractor has already suspended work related to Consent Decree obligations due to concerns for employee safety during the COVID-19 pandemic. Any prolonged suspension or curtailment of contractor work due to COVID-19 could also affect the availability of contractors for Consent Decree work and for support of City utility operations for months and even years to come.

The COVID-19 pandemic is also expected to negatively impact the City's financial resources needed for utility operations and Consent Decree work. By letter dated March 14, 2020, the Governor directed the Office of Regulatory Staff to request that regulated utilities, including those not regulated by the utilities commission, not suspend or disconnect essential service for non-payment during the state of emergency. For many residents and businesses, unemployment and the interruption of business due to COVID-19 for even a short time could lead to financial vulnerability for many months. Indeed, some businesses, particularly restaurants and bars, may not be able to re-open once the COVID-19 restriction on operation are lifted. Finally, if the COVID-19 pandemic leads to a prolonged economic downturn, the City's ability to generate the revenue necessary to perform the Consent Decree obligations under the current schedule may be impacted by reduced revenues and the inability to impose rate increases on and recover delinquent service fees from residents and businesses.

Given the continuing state of emergency, the City will not be able to provide all of the information required within seven days under Paragraph 56 of the Consent Decree. Therefore, the City requests that this notice serve as the 72-hour initial notice and the written 7-day notice until the COVID-19 pandemic has been contained and normal operations resumed. At that time, the City will provide the a more complete description of the specific reasons for the delay, the anticipated Consent Decree obligations which will be delayed and the duration of such delay, all actions taken or to be taken in an effort to prevent or minimize the delays, and a schedule for implementation of any measures to be taken in an effort to prevent or mitigate the delays or the effect of the delays. Please be assured that the City takes its obligations pursuant to the Consent Decree very seriously, but must first direct all of its otherwise available resources to responding to the current state of emergency. At this time, the City has contingencies in place to ensure continued operation of the wastewater collection and treatment system and does not expect that the impacts of the COVID-19 pandemic will result in any endangerment to public health, welfare or the environment.

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The City appreciates your consideration of this force majeure notice and the request to provide additional information required under Paragraph 56 of the Consent Decree once the COVID-19 pandemic is contained and the City is better able to fully assess the impacts on its performance of its Consent Decree obligations. If additional information is needed in support of this request, please do not hesitate to contact me.

Sincerely,

Teresa B. Wilson
City Manager