

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. W-1034, SUB 8  
DOCKET NO. W-1034, SUB 10

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. W-1034, SUB 8	)	
	)	
In the Matter of	)	
Application by Water Resources, Inc.,	)	
for Authority to Increase Rates for Water	)	
Utility Service in Rocky River Plantation	)	
Subdivision in Cabarrus County and	)	
River Walk Subdivision in Mecklenburg	)	
County, North Carolina	)	
	)	
DOCKET NO. W-1034, SUB 10	)	PUBLIC STAFF'S MOTION TO
	)	RAISE THE AMOUNT OF BOND
	)	OF WATER RESOURCES, INC.
In the Matter of	)	
Lenny Devitto, 8529 Indian Summer	)	
Trail, Harrisburg, North Carolina 28075,	)	
Complainant	)	
v.	)	
	)	
Water Resources, Inc.,	)	
Defendant	)	

NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission (Public Staff), by and through its Executive Director, Christopher J. Ayers, and pursuant to N.C. Gen. Stat. § 62-110.3(c) and North Carolina Utilities Commission (Commission) Rules R1-7 and R7-37, hereby respectfully moves the Commission to raise the amount of the bond for Water Resources, Inc. (WRI) for providing water utility service from \$35,000 to \$235,000 by requiring WRI to post a new bond in the amount of \$200,000. In support, the Public Staff states the following:

## Background

1. WRI acquired the Rocky River Subdivision water system from General Utilities Associates in 1993 and was granted a certificate of public convenience and necessity (CPCN) to serve this service area by Commission order issued on September 16, 1993. Application by Water Resources, Inc., Post Office Box 11269, Charlotte, North Carolina 28220-1269 for Authority to Transfer the Franchise for Water Utility Service in Rocky River Subdivision in Mecklenburg County, North Carolina, from General Utilities Associates, Docket No. W-1034, Sub 0, Recommended Order Approving Transfer and Approving Rates, September 16, 1993, (Sub 0).

2. In the Sub 0 Order, WRI was directed to post a bond in the amount of \$35,000 for the Rocky River Subdivision, and on September 23, 1993, WRI posted with the Commission a certificate of deposit for the \$35,000 bond amount.

3. By order dated January 27, 2012, WRI received a CPCN to serve the River Walk Subdivision in Mecklenburg County, North Carolina<sup>1</sup>. Pursuant to the Commission's order, ten thousand dollars of the \$35,000 bond was allocated to the River Walk Subdivision. Application by Water Resources, Inc., 5970 Fairview Road, Suite 710, Charlotte, North Carolina 28210, for a Certificate of Public Convenience and Necessity for Water Utility Services in River Walk Subdivision, in Mecklenburg County, North Carolina, and for Approval of Rates, Docket No. W-1034, Sub 6, Recommended Order Granting Certificate of Public Convenience and

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<sup>1</sup> The River Walk Subdivision is a separate subdivision from the River Walk Plantation Subdivision and is owned by Dennis Abbot. It is not a part of this proceeding.

Necessity, Approving Rates, Requiring Improvements, and Requiring Customer Notice, January 27, 2012, (Sub 6).

4. In 2018, WRI filed an application with the Commission requesting authority to increase its rates for water utility service in the Rocky River Subdivision. During its investigation, the Public Staff noted deficiencies in WRI's operation of the water system at the Rocky River Subdivision. Public Staff witness David Furr, then the Director of the Public Staff Water, Sewer, and Telephone Division, noted these deficiencies in his pre-filed direct testimony.<sup>2</sup> Application by Water Resources, Inc., for Authority to Increase Rates for Water Utility Service in Rocky River Plantation Subdivision in Cabarrus County and River Walk Subdivision in Mecklenburg County, North Carolina, Docket No. W-1034, Sub 8 Application for Rate Increase, April 18, 2018, (Sub 8).

5. The deficiencies listed by Public Staff witness Furr in his direct testimony were listed in Findings of Fact Nos. 7-11 of the Commission's Sub 8 Order<sup>3</sup>:

7. A sanitary survey for Rocky River was conducted by DEQ on March 29, 2018, and WRI was sent a Notice of Deficiency letter, dated April 3, 2018. The stated deadlines for resolving the issues were July 31, 2018, and further extended to July 31, 2018. As of August 16, 2018, the following items were not resolved:

a. The hypochlorite solution injection point is not in the location shown on the approved plans for the chemical feed system improvements, which violates the requirements of 15A NCAC 18C.1304(a);

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<sup>2</sup> Testimony of David C. Furr, August 29, 2018, P. 16, LL 18-21, P. 17, LL 1-5.

<sup>3</sup> Sub 8, Recommended Order Approving Agreed Upon Rates and Requiring Customer Notice, November 21, 2018

- b. A faucet or spigot for sampling treated water prior to delivery to the first customer was not provided, which violates the requirements of 15A NCAC 18C.0402(e);
- c. The well house provided for Well 1 was not secured with a lock and key, which violates the requirements of 15A NCAC 18C.0402(f);
- d. Totalizing meters for Well 1 and Well 2 were not functional, which violates the requirements of 15A NCAC 18C.0402(g)(6); and
- e. Approximately three residual disinfection tests in the distribution system are performed per week. The water system is classified as a B Distribution system, which requires a minimum of five residual disinfection tests to be performed in the distribution system per week. This is a violation of the requirements of 15A NCAC 18C.1302(a)(1)(A).

8. The DEQ Notice of Deficiency letter, dated April 3, 2018, also made the following recommendations:

- a. Due to the results from the iron and manganese field readings occasionally exceeding the secondary maximum contaminant levels, it is recommended that the water filter be evaluated by a qualified professional to assess the operation and maintenance of the water filter;
- b. That the Hach Iron and Manganese Color Disc Test Kit used to measure the iron and manganese concentrations reported on the monthly operation reports, be calibrated in accordance with the manufacturer's instructions, that no expired reagents are used, and that the test kit be stored and maintained in accordance with the manufacturer's instructions;
- c. That the elevated storage tank be regularly inspected by a qualified professional and that the vent be inspected on a regular basis to ensure that the screen is intact; and
- d. That the holes observed in the lower portion of the western wall of the building containing the filter be repaired.

9. Water meters at Rocky River are over 25 years old, and the Public Staff has recommended that they be replaced.

10. Cases of cloudy water due to suspended air, and brown water due to high iron content have been observed at Rocky River, and WRI should take steps to better monitor water quality.

11. A sanitary survey for River Walk was conducted by DEQ on December 6, 2017, and WRI was sent a Notice of Deficiency letter, dated January 2, 2018. The stated deadline for resolving issues was extended to May 2, 2018. As of August 16, 2018, the following items were not resolved:

a. The cover over the well holes for Well 1 was not secured against unauthorized access, and a locking mechanism was not provided, which violates the requirements of 15A NCAC 18C.0405(f);

b. A properly sized vacuum relief valve is not provided for the hydro-pneumatic tank, which violates the requirements of 15A NCAC 18C.0405(c)(3); and

c. The Department of Labor inspection for the hydro-pneumatic tank is expired, which violates the requirements of 15A NCAC 18C.0405(c)(5).

6. The Commission, in its November 21, 2018, Order in the Sub 8 Docket, directed WRI to correct the above-listed deficiencies within 90 days.

7. On April 4, 2019, the Public Staff sent a letter to WRI regarding its failure to comply with the Commission's November 21, 2018, Order, because the company had not addressed the deficiencies listed in Findings of Fact Nos. 7-11. Sub 8, Public Staff Letter to Water Resources, Inc., Re: Rate Order, April 4, 2019.

8. The Public Staff again sent a letter to WRI on August 8, 2019, regarding the deficiencies in Findings of Fact Nos. 7-11. This letter again noted

that WRI had not complied with the Commission's November 21, 2018, Order. Sub 8, Public Staff Letter to Water Resources, Inc., August 8, 2019.

9. On August 30, 2019, WRI filed a letter providing the status of its efforts to resolve the deficiencies identified in the November 21, 2018, Order. Some deficiencies were corrected, but numerous deficiencies remained uncorrected. Sub 8, Status of Deficiency Corrections Noted in the Recommended Order Approving Agreed Upon Rates, August 30, 2019.

10. On February 1, 2021, Eric M. Olsen filed a formal complaint against WRI. This complaint concerns a water leak around Mr. Olsen's meter box. After numerous attempts were made by WRI to fix the leak, the leak was finally repaired on June 11, 2021. Eric M. Olsen, 3029 Tom Savage Drive, Harrisburg, North Carolina 28075 v. Water Resources, Inc., Docket No. W-1034, Sub 9, Formal Complaint of Eric M. Olsen, February 1, 2021, (Sub 9).

11. Mr. Olsen's Complaint was dismissed by the Commission on July 15, 2022. Sub 9, Order Dismissing Complaint, July 15, 2022.

12. In dismissing the Olsen Complaint, the Commission recognized "that WRI needs to make improvements in its customer service and utility operations, and the Commission will require WRI to continue to meet Commission-ordered directives." Sub 9, Order Dismissing Complaint, July 15, 2022, P.24.

13. On June 25, 2021, another complaint against WRI was filed by Mr. Lenny Devitto, a customer in the Rocky River Subdivision. Lenny DeVitto, 8529 Indian Summer Trail, Harrisburg, North Carolina 28075 v. Water Resources, Inc.,

Docket No. W-1034, Sub 10, Formal Complaint of Lenny DeVitto, June 25, 2021, (Devitto Complaint).

14. The Devitto Complaint alleges that WRI failed to comply with the 2018 Rate Case Order by not replacing the antiquated water meters and failed to comply with a requirement by the North Carolina Department of Environmental Quality (DEQ) to repair one of the two wells serving Rocky River or to connect to the Town of Harrisburg water system.

15. On August 7, 2019, WRI received a Notice of Violation (NOV) from the DEQ for not submitting analytical results on time. The Rocky River subdivision system requires quarterly testing and reporting of the results to DEQ. WRI was directed by the DEQ to resume monitoring, provide notification of the violation to customers, and submit the notice provided to customers to the Public Water Supply section of the DEQ.<sup>4</sup>

16. WRI, on August 19, 2021, filed a Motion for Clarification in the Sub 8 docket. This Motion requested the Commission clarify whether WRI was obligated to replace the antiquated water meters in the Rocky River Subdivision. Sub 8, Motion for Clarification, August 19, 2021.

17. WRI received another Notice of Violation from the DEQ on October 14, 2019. This Notice states that WRI did not provide public notice that quarterly monitoring revealed that combined radium levels exceeded the maximum prescribed limits.<sup>5</sup>

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<sup>4</sup>NC0113220\_20190807\_VOC\_MON\_NOV\_20192Q\_SS1, Attached as Exhibit A.

<sup>5</sup>NC0113220\_20191014\_PN, Attached as Exhibit B.

18. On October 28, 2019, the DEQ assessed an administrative penalty against WRI. DEQ assessed this penalty because WRI did not designate a certified operator in responsible charge for the b-distribution portion of the water system. WRI was assessed a penalty of \$1,350.<sup>6</sup>

19. WRI was issued another NOV<sup>7</sup> by DEQ on October 22, 2020, due to not having at least two wells to serve the Rocky River Subdivision. Water systems, with over 50 connections, that use well water as their source of supply must provide at least two wells. WRI took its Well 1 out of service because of Combined Radium Maximum Contaminant Level (MCL) exceedances. These exceedances were the subject of the above NOVs. Well 1 was taken out of service in or around June 2019.

20. The DEQ filed a Complaint and Motion for Injunctive Relief against WRI in the Superior Court of Cabarrus County on June 18, 2021. This Complaint alleges that WRI failed to install a secondary water source after Well 1 was taken out of service. *State of North Carolina, ex rel., North Carolina Department of Environmental Quality v. Water Resources, Inc.*, 2021 CVS 2109, Attached as Exhibit E.

21. On July 15, 2021, WRI and DEQ entered into a Consent Judgment. This Consent Judgment was necessary because WRI still had not provided a secondary water source for the Rocky River Subdivision. *Id.*, Attached as Exhibit F.

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<sup>6</sup> 2019-10-28\_Penalty\_ORCViolation\_RockyRiverPlantiation\_0113220, Attached as Exhibit C.

<sup>7</sup> . 20201016\_RockyRiverPlantation\_NOV signed, Attached as Exhibit D.



22. The Consent Judgment required WRI to submit a plan to the Public Water Supply Section of DEQ to interconnect the Rocky River Subdivision water system to the Town of Harrisburg water system or in the alternative, install a treatment system for Well 1 or install a new well.

23. The Commission issued an Order ruling on WRI's Motion for Clarification on September 9, 2021. This Order directed WRI to complete the required meter replacements within four months from the date of the Order.<sup>8</sup>

24. The September 9, 2021, Order also required the Public Staff to investigate the status of "WRI's compliance with the 2018 Rate Case Order, the impact of the DEQ Notices of Violation and Consent Judgment on the Company's ability to adequately serve its customers, and whether appointment of an emergency operator should be considered at this time." The Commission directed the Public Staff to file a report on the status of its investigation of WRI's compliance with the 2018 rate case order within 90 days of the order.

25. The Public Staff submitted its report on December 20, 2021. In this report, the Public Staff stated that appointing an emergency operator was not warranted at the time. WRI was in the process of addressing the remaining issues from the 2018 Rate Case Order, albeit at a pace not in compliance with Commission orders or the terms of the Consent Judgment with DEQ. Sub 8, Sub 10, Public Staff Investigation Report and Recommendations, December 20, 2021.

26. In the December 20, 2021, report, the Public Staff noted WRI had not completed the following items from the 2018 Sub 8 Rate Case Order:

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<sup>8</sup> Sub 8, Order Ruling on Motion for Clarification, Holding Complaint in Abeyance, and Requiring Public Staff Investigation, September 9, 2021.

- A. The replacement of the vent screen and hatch on the elevated storage tank located in Rocky River Plantation subdivision.
- B. The replacement of the water meters in the Rocky River Plantation subdivision.
- C. The cleaning and recoating of the hydro-pneumatic tank and ground storage tank located in River Walk subdivision.
- D. Providing the Rocky River Plantation subdivision with at least two operational wells or, in lieu of a second well, executing an alternate means of ensuring the Rocky River Plantation System is in compliance with the North Carolina Drinking Water Act and related regulations, as required by the Consent Judgment.

The Public Staff recommended the Commission direct WRI to file every 30 days a report on the status of the four incomplete items.

27. WRI filed a letter on February 18, 2022, informing the Commission that meter replacements for the Rocky River Subdivision were complete except for two meters. WRI informed the Commission on June 28, 2022, that the remaining two meters had been replaced. Sub 8, Notice of Status of Compliance with Meter Replacement Requirement, February 18, 2022.

28. On July 29, 2022, the Commission issued an order directing WRI to:
- a. File an updated report regarding the status of the deficiencies identified in the September 9, 2021, order;
  - b. Comply with the deadline imposed by DEQ to interconnect with the Town of Harrisburg. Sub 8, Order Requiring Compliance with 2918 Rate Case Order and DEQ Notices of Violation and Consent Judgment, and Requiring Filing of Further Reports, July 29, 2022.

29. On September 12, 2022, the DEQ filed a Motion for Entry of Order to Show Cause for Civil Contempt against WRI in the Cabarrus County Superior Court. *State of North Carolina, ex rel., North Carolina Department of Environmental Quality v. Water Resources, Inc.*, 2021 CVS 2109, Attached as Exhibit G. The Consent Judgment entered into between DEQ and WRI required WRI to submit a Compliance Plan to DEQ to bring the Rocky River Subdivision water supply system back into compliance with the Drinking Water Act. WRI was mandated to:

- a. Complete construction and submit an Engineer's Certification and Applicant's Certification for the completed interconnection to the Town of Harrisburg by September 9, 2022; and
- b. Place the interconnection in active service by October 10, 2022.

30. The DEQ contempt motion states that an inspection on September 9, 2022, of the Rocky River Subdivision water system revealed no signs of construction of the interconnection to the Town of Harrisburg's water system.

31. Further, the Town of Harrisburg requires payment of a \$100,000 connection fee before connecting to its system. Upon information and belief, WRI has known about this connection fee since at least January 2022; however, WRI has yet to pay the connection fee.

#### **Informal Customer Complaints Against WRI**

32. The Commission has received numerous complaints from customers of WRI. The complaints deal with water leaks, low water pressure, billing issues, water outages, water quality issues, and customer service issues.

33. In speaking with customers regarding the problems with the Rocky River Subdivision water system, a common theme has emerged – WRI often ignores problems until confronted with sanctions by a regulatory agency. Several customers have recounted that their service complaints to WRI were often ignored, and they were given excuses as to why the problem was not fixed, or told the problem was fixed only to have it reoccur.

#### **Relevant Law**

34. N.C.G.S. § 62-110.3(a) provides that no franchise may be granted to any water or sewer utility company “until the applicant furnishes a bond, secured with sufficient surety as approved by the Commission, in an amount not less than ten thousand dollars (\$10,000).”

35. In addition, the bond “shall be conditioned upon providing adequate and sufficient service within all the applicant's service areas.”

36. In setting the amount of a bond, the Commission, pursuant to N.C.G.S. § 62-110.3(a), “shall consider and make appropriate findings as to the following”:

- a. “Whether the applicant holds other water or sewer franchises in this State, and if so its record of operation;”
- b. “The number of customers the applicant now serves and proposes to serve;”
- c. “The likelihood of future expansion needs of the service;”

- d. “If the applicant is acquiring an existing company, the age, condition, and type of the equipment;” and
- e. “Any other relevant factors, including the design of the system.”

37. N.C.G.S. § 62-110.3(c) provides that “[t]he utility, the Public Staff, Attorney General, and any other party may, at any time after the amount of a bond is set, apply to the Commission to raise or lower the amount based on changed circumstances.”

38. Commission Rule R7-37 restates and reaffirms most of these provisions and requirements.

### **Policy Considerations**

39. The amount of bond set pursuant to N.C.G.S. § 62-110.3 and Commission Rule R7-37 should help ensure the continued provision of adequate and sufficient water service in the event a water utility is unable to provide such service due to financial constraints, mismanagement, and/or other factors.

40. The factors and findings set forth in N.C.G.S. § 62-110.3(a)(1) – (5) make clear that the bond amount depends heavily on the applicant’s financial, managerial, and technical expertise, the applicant’s prior performance where applicable, the number of current and projected future water customers, system expansion plans and needs, the complexity of the applicant’s water system and facilities, and any other factors that bear upon the risk of the applicant providing inadequate, inconsistent, and/or insufficient water service.

41. N.C.G.S. § 62-110.3 and Commission Rule R7-37 make it clear that a higher risk of deficient water service necessitates a higher bond amount.

42. N.C.G.S. § 62-110.3(c) operates as a safety valve in the event that changed circumstances indicate there is an increased risk of deficient water service.

43. For purposes of N.C.G.S. § 62-110.3(c), an increase in the risk of deficient water service can be demonstrated by any changes since the original bond was set in the utility's track record of service, system performance, compliance with state environmental law, compliance with Commission laws, rules, or orders, the nature and scale of customer complaints, expansion plans, and utility expenditures necessary to address such changes.

### **Analysis**

44. WRI's initial bond of \$35,000 for the Rocky River Subdivision was set on September 16, 1993, in Sub 0, Recommended Order Approving Transfer and Approving Rates, and modified such that \$10,000 of the \$35,000 bond was allocated to the River Walk Subdivision by Order of the Commission in 2012. Docket No. W-1034, Sub 6,

45. Since the 2018 rate case, WRI's quality of service has been inadequate. The deficiencies identified by the Public Staff, and agreed to by WRI, in the Sub 8 2018 rate case were only remedied after the Commission threatened sanctions against WRI. Numerous water outages have occurred. One of the wells supplying water to the Rocky River Subdivision contains elevated levels of Radium and is out of service. After four years, WRI has yet to secure a secondary water

supply for the Rocky River Subdivision. This continued lack of a secondary water supply required the DEQ to file a Complaint and Motion for Injunctive Relief against WRI in the Superior Court of Cabarrus County. Even under the threat of contempt sanctions under the Consent Judgment, WRI still has not secured a secondary water supply for the Rocky River Subdivision, leading the DEQ to file a motion for civil contempt in the Superior Court of Cabarrus County.

46. WRI's plan to secure a secondary source of water supply is to interconnect to the Town of Harrisburg's water system. This requires a connection/capacity fee of \$100,000 to be paid to the Town, acquisition of utility easements, permitting, construction of the water main interconnection and meter vault, and proper operation of the modified water system. As part of the Consent Judgement, WRI had agreed and received an extension from DEQ to have the construction complete and certified by September 9, 2022, and the interconnection in service by October 10, 2022. Upon information and belief, the connection has not been paid to the Town and the necessary easements have not been acquired. According to DEQ's contempt motion, the construction has not started.

47. With WRI's track record of not acting unless under the threat of sanctions from regulatory agencies, numerous water supply outages, poor quality of service, and contempt proceedings in the Superior Court of Cabarrus County, a \$35,000 bond is inadequate to ensure its customers receive adequate, safe, and reliable service in the event of WRI's abandonment and/or effective abandonment of its water system, which would necessitate appointment of an emergency operator.

An increased bond amount of \$235,000 would provide the funds necessary to cure the Sub 8 deficiencies, connection fees, and capital improvements, and operation and maintenance expenses.

WHEREFORE, for the reasons stated above, the Public Staff prays:

1. That the Commission find that WRI has not provided adequate, safe, and reliable water utility service;
2. That the Commission direct WRI to post an additional bond in the amount of \$200,000;
3. That the \$200,000 should be allocated to the Rocky River Plantation subdivision; and
4. For such other and further relief as the Commission may deem just and proper.

Respectfully submitted this 29th day of September 2022.

PUBLIC STAFF  
Christopher J. Ayers  
Executive Director

Lucy E. Edmondson  
Chief Counsel

Electronically submitted  
/s/ John D. Little  
Staff Attorney

4326 Mail Service Center  
Raleigh, North Carolina 27699-4300  
Telephone: (919) 733-6110  
[john.little@psncuc.nc.gov](mailto:john.little@psncuc.nc.gov)



**CERTIFICATE OF SERVICE**

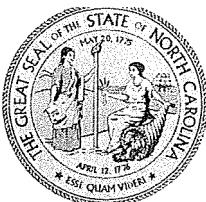
I do hereby certify that I have this day served a copy of the foregoing Petition upon each of the parties of record in this proceeding or their attorneys of record by emailing them an electronic copy or by causing a paper copy of the same to be hand-delivered or deposited in the United States Mail, postage prepaid, properly addressed to each.

This the 29th day of September 2022.

Electronically submitted  
/s/ John D. Little



# W-1034, Subs 8 & 10 Exhibit A



NORTH CAROLINA  
Environmental Quality

NC0113220\_20190807\_VOC\_MON\_NOV\_20192Q\_SS1.pdf

August 7, 2019

ROY COOPER

Governor

MICHAEL S. REGAN

Secretary

LINDA CULPEPPER

Director

RECEIVED

Morenci Regional Office

AUG 12 2019

NC0113

Public Water Supply

**TO:** WATER RESOURCES INC  
5970 FAIRVIEW RD SUITE 710  
ATTN DENNIS ABBOTT  
CHARLOTTE, NC 28210-3167

**RE:** ROCKY RIVER PLANTATION S/D  
WATER SYSTEM NUMBER: NC0113220  
COUNTY: CABARRUS  
SYSTEM TYPE: C  
Facility ID No./Sample Point ID:SS1 / E03

## NOTICE OF VIOLATION

**VOLATILE ORGANIC CHEMICALS Monitoring and Reporting Violation:** Your system was required to be monitored for Volatile Organic Chemicals during the quarterly compliance period beginning April 1, 2019 at SAMPLING STATION\_WELL #1, for Facility ID / Sample Point: SS1 / E03. Our records indicate that valid Volatile Organic Chemicals analytical results for that compliance period have not been reported to this agency within the required timeframe. Failure to monitor for the contaminant(s) is a violation of 15A NCAC 18C .1515 and the failure to report analytical results on time is a violation of 15A NCAC 18C .1525.

**You will receive an administrative penalty, assessed under G.S. 130A-22(b), for a confirmed monitoring and reporting violation for the compliance period cited above.**

## ADMINISTRATIVE ORDER

**IT IS HEREBY ORDERED** that WATER RESOURCES INC shall return to compliance as follows:

### **For a Monitoring and Reporting Violation:**

- 1. Resume monitoring:** Collect water samples for Volatile Organic Chemicals during the current quarterly compliance period (July 1, 2019 through September 30, 2019) and continue sampling as required by 15A NCAC 18C .1515. Water samples must be analyzed by a North Carolina certified laboratory. (See Web page: <https://slphreporting.ncpublichealth.com/EnvironmentalSciences/Certification/CertifiedLaboratory.asp> for a list of NC certified laboratories.) Your laboratory is responsible for electronically reporting your analytical results to the Public Water Supply Section. We recommend that you check our website links to "Sampling Status" and/or "Drinking Water Watch" and follow-up with your laboratory, as necessary, to ensure we receive your sample results;
- 2. Provide public notification:** Provide public notification of the monitoring/reporting violation cited above as required by 15A NCAC 18C .1523. See the enclosed sample notice with instructions. Failure to provide public notification as required is a violation of 15A NCAC 18C .1523; and
- 3. Submit a copy of your completed Notice to the Public and Public Notification Certification to the Public Water Supply Section:** Immediately after you have distributed the notices to your customers, use our web-based certification process "ECERT" to submit a copy of the completed notice with your signature and date on the Public Notification Certification (located at the bottom of our template notice) indicating full compliance with all the public notification requirements. Access to ECERT is available from our website or the following link: <https://pws.ncwater.org/ECERT/>. If you do not have internet access, mail the completed notice to Bethany Goodwin at 1634 Mail Service Center, Raleigh, NC 27699-1634. Retain a copy of these documents for your files.

**Note:** If you do not provide the required public notification to your customers and submit a signed certification with the notice to the Public Water Supply Section, you may be subject to an additional administrative penalty.



North Carolina Department of Environmental Quality | Division of Water Resources  
512 North Salisbury Street | 1634 Mail Service Center | Raleigh, North Carolina 27699-1634  
919.707.9000

OFFICIAL COPY

Sep 29 2022

**For a Reporting Violation:**

If monitoring **was performed** during the quarterly compliance period beginning April 1, 2019, but valid analytical results were not properly reported to the Public Water Supply Section, WATER RESOURCES INC shall:

1. **Immediately contact your laboratory** to confirm that your laboratory was properly certified for the analysis performed. Then have the laboratory electronically upload the analytical results and notify Emily Lester, Volatile Organic Chemicals Rule Manager by **August 21, 2019**; and
2. **Contact Emily Lester** at telephone number (919) 707-9099 or by e-mail at [Emily.Lester@ncdenr.gov](mailto:Emily.Lester@ncdenr.gov) to confirm that the analytical report has been received from the laboratory and that it is complete. If the Rule Manager determines that your system properly completed the required monitoring, your system will be returned to compliance for the monitoring violation. Because valid analytical results were received after the required reporting timeframe, your system will still have a reporting violation of 15A NCAC 18C .1525.

**Note:** If the Rule Manager determines that valid analytical results were received for the quarterly compliance period beginning April 1, 2019, no public notification is required and no penalty will be issued for the monitoring and reporting violation cited above.

**ENFORCEMENT AUTHORITY**

This Notice of Violation and Administrative Order are issued pursuant to authority in G.S. 130A-325 and G.S. 130A-326. Any person who violates, fails to comply or refuses to comply with any of the provisions of this Order is subject to an administrative penalty under G.S. 130A-22(b). The agency reserves the right to take enforcement action for any new or additional violations of the NC Drinking Water Act or North Carolina's Rules Governing Public Water Systems, 15A NCAC 18C.

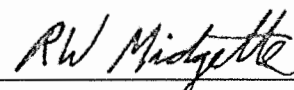
**ADDITIONAL INFORMATION**

Please include your water system's name and number on all correspondence. Our website contains links to "Sampling Status" which allows systems to view their current monitoring schedules for each contaminant group and to "Drinking Water Watch" which allows systems to view their monitoring results and other system information. Copies of North Carolina's Rules Governing Public Water Systems can be found on our website at [www.ncwater.org/pws/](http://www.ncwater.org/pws/).

**CONTACT INFORMATION**

If you have questions or need assistance regarding public notification, please contact Bethany Goodwin, Public Notification Rule Manager, at (919) 707-9079 or by e-mail at [Bethany.Goodwin@ncdenr.gov](mailto:Bethany.Goodwin@ncdenr.gov).

If you have questions or need assistance regarding this violation, please contact the Rule Manager, Emily Lester by phone at (919) 707-9099 or by e-mail at [Emily.Lester@ncdenr.gov](mailto:Emily.Lester@ncdenr.gov).

BY:   
Robert W. Midgette, P.E., Section Chief  
Public Water Supply Section  
Division of Water Resources, NCDEQ

Enclosures: Notice to the Public/Public Notification Certification

cc: MOORESVILLE REGIONAL OFFICE

# NOTICE TO THE PUBLIC

## IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

### ROCKY RIVER PLANTATION S/D HAS NOT MET MONITORING REQUIREMENTS

We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not our drinking water meets health standards. During the compliance period specified in the table below, we ['did not monitor or test' or 'did not complete all monitoring or testing'] for the contaminants listed and therefore cannot be sure of the quality of your drinking water during that time.

CONTAMINANT GROUP**	FACILITY ID NO./ SAMPLE POINT ID	COMPLIANCE PERIOD BEGIN DATE	NUMBER OF SAMPLES/ SAMPLING FREQUENCY	WHEN SAMPLES WERE OR WILL BE TAKEN (Water System to Complete)
VOLATILE ORGANIC CHEMICALS	SS1/E03	APRIL 1, 2019	1 / QUARTER	

\*\* See back of this notice for further information on contaminants.

**What should I do?** There is nothing you need to do at this time.

**What is being done?** [Describe corrective action.]

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

For more information, please contact:

Responsible Person	System Name <b>ROCKY RIVER PLANTATION S/D</b>	System Address (Street)
Phone Number	System Number <b>NC0113220</b>	System Address (City/State/Zip)

Violation Awareness Date: August 7, 2019

Date Notice Distributed: \_\_\_\_\_ Method of Distribution: \_\_\_\_\_

#### Public Notification Certification:

The public water system named above hereby affirms that public notification has been provided to its consumers in accordance with all delivery, content, format, and deadline requirements specified in 15A NCAC 18C .1523.

Owner/Operator: \_\_\_\_\_ (Signature) \_\_\_\_\_ (Print Name) \_\_\_\_\_ (Date)

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Sep 29 2022

## Contaminant Group List

**(AS) Asbestos** - includes testing for Total Asbestos.

**(BA) Total Coliform Bacteria** – includes testing for Total Coliform bacteria and *E.coli* bacteria. Testing for *E.coli* bacteria is required if total coliform is present in the sample.

**(B) Bromate** – includes testing for Bromate.

**(CD) Chlorine Dioxide/Chlorite** – includes testing for Chlorine Dioxide and/or Chlorite.

**(DI) Disinfectant Residual** must be tested with the collection of each compliance bacteriological sample, at the same time and site.

**Fecal Indicators** – includes *E.coli*, enterococci or coliphage.

**(HAA5)- Haloacetic Acids** - includes Monochloroacetic Acid, Dichloroacetic Acid, Trichloroacetic Acid, Monobromoacetic Acid, Dibromoacetic Acid.

**(IOC) Inorganic chemicals** - includes Antimony, Arsenic, Barium, Beryllium, Cadmium, Chromium, Cyanide, Fluoride, Iron, Manganese, Mercury, Nickel, pH, Selenium, Sodium, Sulfate, and Thallium.

**(LC) Lead and Copper** are tested by collecting the required number of samples and testing each of the samples for both lead and copper.

**(NT) Nitrate/ (NI) Nitrite** – includes testing for nitrate and/or nitrite.

**(RA) Radionuclides** – includes Gross Alpha, Radon, Uranium, Combined Radium, Radium 226, Radium 228, Potassium 40 (Total), Gross Beta, Tritium, Strontium 89, Strontium 90, Iodine 131, and Cesium 134.

**(SOC) – Synthetic Organic Chemicals/Pesticides** – includes 2,4-D, 2,4,5-TP (Silvex), Alachlor (Lasso), Atrazine, Benzo(a)pyrene, Carbofuran, Chlordane, Dalapon, Di(2-ethylhexyl)adipate, Di(2-ethylhexyl)phthalate, Dibromochloropropane (DBCP), Dinoseb, Endrin, Ethylene dibromide (EDB), Heptachlor, Heptachlor Epoxide, Hexachlorobenzene, Hexachlorocyclopentadiene, Lindane (BHC-Gamma), Methoxychlor, Oxamyl (Vydate), PCBs, Pentachlorophenol, Picloram, Simazine, and Toxaphene.

**(TOC) - Total Organic Carbon** - includes testing for Alkalinity, Dissolved Organic Carbon (DOC), Total Organic Carbon (TOC) and Ultraviolet Absorption 254 (UV254). Source water samples must be tested for both TOC and Alkalinity. Treated water samples must be tested for TOC. Source water samples and treated water samples must be collected on the same day.

**(TTHM) - Total Trihalomethanes** - includes Chloroform, Bromoform, Bromodichloromethane, and Dibromochloromethane.

**(VOC) - Volatile Organic Chemicals** - includes 1,2,4-Trichlorobenzene, Cis-1,2-Dichloroethylene, Xylenes (Total), Dichloromethane, o-Dichlorobenzene, p-Dichlorobenzene, Vinyl Chloride, 1,1,-Dichloroethylene, Hexachloroethylene, Trans-1,2,-Dichloroethylene, 1,2-Dichloroethane, 1,1,1-Trichloroethane, Carbon Tetrachloride, 1,2-Dichloropropane, Trichloroethylene, 1,1,2-Trichloroethane, Tetrachloroethylene, Chlorobenzene, Benzene, Toluene, Ethylbenzene, and Styrene.

**(WQP) Water Quality Parameters** (for Lead and Copper Rule) - includes Calcium, Orthophosphate (as PO<sub>4</sub>), Silica, Conductivity, pH, Alkalinity and Water Temperature.

### Instructions for Completing the Notice/Certification Form & for Performing Public Notice for Tier 3 Monitoring Violations

1. Complete **ALL** the missing information on the “Notice to the Public.” (Note: Under the section of the notice entitled “What is being done?” describe corrective actions you took, or are taking. You may choose the appropriate language below, or develop your own:
  - We have since taken the required samples, as described in the last column of the table above. The sample results showed we are meeting drinking water standards.
  - We have since taken the required samples, as described in the last column of the table above. The sample for [contaminant] exceeded the limit. [Describe corrective action; use information from public notice prepared for violating the limit.]
  - We plan to take the required samples soon, as described in the last column of the table above.

2. Provide public notification to your customers as soon as reasonably possible after you learn of the violation as follows:

<p><b>Community systems</b> must use one of the following:</p> <ul style="list-style-type: none"> <li>• Hand or direct delivery</li> <li>• Mail, as a separate notice or included with the bill</li> </ul> <p><b>For community systems</b>, this notice is appropriate for insertion in an annual notice or the Consumer Confidence Report (CCR), as long as public notification timing and delivery requirements are met [CFR 141.204(d)].</p>	<p><b>Non-community systems</b> must use one of the following:</p> <ul style="list-style-type: none"> <li>• Posting in conspicuous locations</li> <li>• Hand delivery</li> <li>• Mail</li> </ul> <p><b>For non-community systems</b>, if you post the notice, it must remain posted as long as the violation or situation persists; in no case should the notice be posted less than 7 days, even if the violation is resolved. [CFR 141.204(b)].</p>
---	---

(Note: **Both** community and non-community systems must use *another* method reasonably calculated to reach others **IF** they would not be reached by one of the required methods listed above [CFR 141.204(c)]. Such methods could include newspapers, e-mail, or delivery to community organizations.

- **Both sides of this public notice/certification MUST be delivered to the persons served by the water system** in order for your customers to have access to the required Contaminant Group List.
  - If you mail, post, or hand deliver, print your notice on letterhead, if available.
  - Notify new billing customers or units prior to or at the time their service begins.
  - Provide multi-lingual notifications if 30% of the residents served are non-English speaking.
  - Should you decide not to use this notice and develop your own version instead, the mandatory language in ***bold italics*** may not be altered, and you **MUST** include the ten required elements listed in CFR 141.205. The certification located at the bottom of this sample notice **MUST** also be submitted.
3. After issuing the “Notice to the Public” to your customers, **sign and date** the “Public Notification Certification” at the bottom of the notice. Within **ten days** after issuing the notice [CFR 141.31(d)], use our on-line ECERT application located on our website at: <https://pws.ncwater.org/ECERT/pages/default.aspx> to submit your completed Notice/Certification to the Public Water Supply Section. If you do not have access to the internet, mail your completed Notice/Certification to: Public Water Supply Section, ATTN: Public Notification Rule Manager, 1634 Mail Service Center, Raleigh, NC 27699-1634.

Keep a copy for your files.



AP

W-1034, Subs 8 & 10

Exhibit B

OFFICIAL COPY

Sep 29 2022



ROY COOPER  
Governor  
MICHAEL S. REGAN  
Secretary  
LINDA CULPEPPER  
Director

RECEIVED  
Mooresville Regional Office

OCT 21 2019

NCDEQ  
Public Water Supply

NC0113220\_20191014\_PN.pdf

October 14, 2019

TO: WATER SYSTEM NUMBER: NC0113220  
WATER RESOURCES INC\_113220  
5970 FAIRVIEW RD SUITE 710  
ATTN DENNIS ABBOTT  
CHARLOTTE, NC 28210-3167

RE: ROCKY RIVER PLANTATION S/D  
COUNTY: CABARRUS  
SYSTEM TYPE: C

**NOTICE OF VIOLATION**

**Public Notification Violation:** Your system was required to provide public notification by July 13, 2019 for the COMBINED RADIUM (-226 & -228) maximum contaminant level violation which occurred during the quarterly compliance period beginning April 1, 2019. Our records indicate that a copy of your Public Notice with the signed certification for the aforementioned violation has not been received by this agency within the required timeframe. Failure to perform public notification and to submit a copy of the notice and the associated certification to the State are violations of 15A NCAC 18C .1523. The notice requirements and public notice template were included in a previous violation letter dated June 13, 2019.

**You will receive an administrative penalty for the violation cited above unless you adequately perform the steps outlined below in the administrative order.**

**ADMINISTRATIVE ORDER**

**IT IS HEREBY ORDERED** that WATER RESOURCES INC\_113220 shall return to compliance as follows:

**To Resolve the Public Notification Violation:**

- 1. Prepare a public notice:** Prepare a public notice for the violation cited above, in accordance with the requirements specified in 15A NCAC 18C .1523. Public notice templates are available on the Public Water Supply Section's website to assist you in compiling your notice at: <https://deq.nc.gov/about/divisions/water-resources/drinking-water/compliance-services#pnr> If you do not use our template and create your own, the content of your notice must meet the requirements of Section .1523 [40 CFR 141.205].
- 2. Provide public notification to your customers within 30 days of the date of this Order.** Community water systems must mail or hand-deliver the public notice to each customer receiving a bill and to other service connections to which water is delivered by the public water system. Non-community systems must post the notice in conspicuous locations throughout the distribution system frequented by persons served by the system, or mail or hand-deliver the notice to each customer and service connection.
- 3. Submit a copy of your completed Notice to the Public and Public Notification Certification to the Public Water Supply Section:** Immediately after you have distributed the notices to your customers, use our web-based certification process "ECERT" to submit a copy of the completed notice with your signature and date on the Public Notification Certification (located at the bottom of our template notice) indicating full compliance with all the public notification requirements. Access to ECERT is available from our website or the following link: <https://pws.ncwater.org/ECERT/>. If you do not have internet access, mail the completed notice to Bethany Goodwin at 1634 Mail Service Center, Raleigh, NC 27699-1634. Retain a copy of these documents for your files.





If public notification was performed within the original required timeframe, but the notice was not properly reported to the Public Water Supply Section, WATER RESOURCES INC\_113220 shall:

1. **Immediately submit your Public Notice that includes the required certification at the bottom of the page.** Go to the following web address to upload and certify your Public Notice on-line: <https://pws.ncwater.org/ECERT/> (click on the 'help' icon at the upper right portion of the screen for instructions).
2. **Confirm our receipt of your submittal.** Once you perform your on-line certification using "ECERT", you will receive an email confirming our receipt of your submittal and then another email once we complete our review. If you do not have internet access and submit your notice via US Mail, you may confirm that your public notification has been received and that it is complete by the following method:
  - (a) Approximately two weeks after mailing your notice, check the status of our receipt on Drinking Water Watch:
    - Go to <https://www.pwss.enr.state.nc.us/NCDWW2/>
    - Enter your Water System No.: NC0113220 in the box provided
    - Click "Search for Water Systems"
    - Click on your Water System No.: NC0113220
    - Click the word "Violations" in yellow text at the top of the page
    - Click on the link for Violation Type 75 with the Determ. Date: 10/14/2019
    - If Action Type "SOX" is displayed, your system has been returned to compliance for the public notice violation; **OR**
  - (b) If you do not have internet access, contact Bethany Goodwin at telephone number (919) 707-9079 to confirm that the public notice with certification at the bottom of the page has been received and that it is complete.

**Note:** No penalty will be issued for the violation cited above if your system complies with the provisions of this Order and returns to compliance. However, your system will still have a public notification violation under 15A NCAC 18C .1523 because the public notice and certification were received after the required reporting timeframe.

### **ENFORCEMENT AUTHORITY**

This Notice of Violation and Administrative Order are issued pursuant to authority in G.S. 130A-325 and G.S. 130A-326. Any person who violates, fails to comply or refuses to comply with any of the provisions of this Order is subject to an administrative penalty under G.S. 130A-22(b). The agency reserves the right to take enforcement action for any new or additional violations of the NC Drinking Water Act or North Carolina's Rules Governing Public Water Systems, 15A NCAC 18C.


### **ADDITIONAL INFORMATION**

Please include your water system's name and number on all correspondence. Our website contains links to "Sampling Status" which allows systems to view their current monitoring schedules for each contaminant group and to "Drinking Water Watch" which allows systems to view their monitoring results and other system information. Copies of North Carolina's Rules Governing Public Water Systems can be found on our website at [www.ncwater.org](http://www.ncwater.org).

### **CONTACT INFORMATION**

If you have questions or need assistance regarding public notification, please contact Bethany Goodwin, Public Notification Rule Manager, at (919) 707-9079 or by e-mail at [Bethany.Goodwin@ncdenr.gov](mailto:Bethany.Goodwin@ncdenr.gov).

BY:

  
\_\_\_\_\_  
Robert W. Midgette, P.E., Chief  
Public Water Supply Section  
Division of Water Resources, NCDEQ

cc: ABBOTT, DENNIS  
MOORESVILLE REGIONAL OFFICE



ROY COOPER  
Governor  
MICHAEL S. REGAN  
Secretary  
LINDA CULPEPPER  
Director



NORTH CAROLINA  
Environmental Quality

October 28, 2019

W-1034, Subs 8 & 10

Exhibit C

AP  
OFFICIAL COPY

**ADMINISTRATIVE PENALTY**

G.S. § 90A-29 and Rules Governing Water Treatment Facility Operators

**TO:** WATER RESOURCES INC.  
ATTN: DENNIS ABBOTT  
5970 FAIRVIEW RD, SUITE 710  
CHARLOTTE NC 28210

**RE:** ROCKY RIVER PLANTATION S/D  
PWSID #: NC0113220  
COUNTY: CABARRUS

This is to inform you that pursuant to G.S. § 90A-30 an administrative penalty has been assessed against WATER RESOURCES INC. for violations of G.S. § 90A-29 and Rules Governing Water Treatment Facility Operators (15A North Carolina Administrative Code 18D) occurring at the ROCKY RIVER PLANTATION S/D water system. The violations and penalty amounts are described below.

**Operator In Responsible Charge Violation:** The water supply system serving ROCKY RIVER PLANTATION S/D failed to designate a certified operator in responsible charge for the B-DISTRIBUTION portion of the facility, thereby violating regulation 15A NCAC 18D .0206 and G.S. § 90A-29. Copies of the rules cited above are available from the web page at <http://deq.nc.gov/about/divisions/water-resources/operator-certification/drinking-water-operator-certification/dw-operator-certification-rules>.

**Penalty:** G.S. § 90A-30 authorizes the assessment of an administrative civil penalty for the violation(s) cited above up to a maximum amount of \$100.00 per day for each day the violation continues. Note that each day the violation continues constitutes a separate violation.

**The penalty assessed for the 90-day period beginning upon the original Notice of Violation/Administrative Order (June 24, 2019) is \$1350.** Be informed that compliance with the state regulations cited above will be reevaluated on 60-day intervals, and additional penalties based upon \$15 per day will be forthcoming for each day the violation(s) continue.

**To Resolve This Penalty:** (1) Immediately designate a certified operator in responsible charge, and provide written confirmation that an appropriately certified operator has been designated for the ROCKY RIVER PLANTATION S/D water system (ORC Designation Form enclosed). (2) Pay the total penalty amount indicated above within 60 days of service of this letter. To ensure proper credit for your payment, return the enclosed payment coupon with a check or money order made payable to the Department of Environmental Quality, to the person and address denoted on the coupon. If an ORC Designation Form is not received, and if the assessed penalty is not paid by the date specified and no hearing is requested, then the Secretary of the North Carolina Department of Environmental Quality may request the Attorney General to commence civil action.

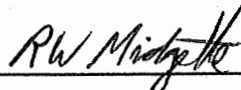


Sep 29 2022

**Right to Appeal:** You may appeal this assessment of an administrative penalty as follows. A petition for an administrative hearing must be submitted within 30 days of receipt of this letter in writing in accordance with G.S. 150B-23(a) to the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, North Carolina 27699-6714 with a copy to Mr. William F. Lane, General Counsel, North Carolina Department of Environmental Quality, 1601 Mail Service Center, Raleigh, North Carolina 27699-1601. A filing fee of \$20.00 is collected by the Office of Administrative Hearings. A petition form with filing instructions is enclosed.

**Compliance and Future Enforcement:** PAYMENT OF THE PENALTY AMOUNT WILL NOT PRECLUDE FURTHER ENFORCEMENT ACTION FOR ANY FUTURE VIOLATIONS. The agency reserves the right to take enforcement action for any new or additional violations. To avoid future assessment of administrative penalties, you must correct the violations cited immediately and comply with the Rules Governing Water Treatment Operators, 15A NCAC 18D.

**Contact Persons:** If you have questions about this penalty, or need to contact this office, please contact Gina Braswell, Enforcement Specialist, at telephone number (919) 707-9103.

BY:   
Robert W. Midgette, P.E., Chief  
Public Water Supply Section  
Division of Water Resources, NCDEQ

- Enclosures: Petition Form, ORC Designation Form
- Cc: PWS Section Regional Office – Mooresville  
PWS Section Enforcement Specialist  
NC WTFOC Board Attorney  
File

Detach payment coupon below and return with your payment

**WATER SYSTEM NUMBER: NC0113220**  
**AMOUNT DUE: \$1350**  
**SYSTEM NAME: ROCKY RIVER PLANTATION S/D**  
**DUE DATE: Within 60 days of service of this letter**

**ROCKY RIVER PLANTATION S/D**  
**5970 FAIRVIEW RD SUITE 710**  
**ATTN: DENNIS ABBOTT**  
**CHARLOTTE NC 28210**

**Make check payable to:** NC Department of Environmental Quality

**Mail to:** Enforcement Specialist – Gina Braswell  
Public Water Supply Section  
1634 Mail Service Center  
Raleigh, NC 27699-1634



ROY COOPER  
Governor  
MICHAEL S. REGAN  
Secretary  
S. DANIEL SMITH  
Director



# W-1034, Subs 8 & 10 Exhibit D

OFFICIAL COPY

Sep 29 2022

## NOTICE OF VIOLATION

October 22, 2020

CERTIFIED MAIL: 7017 2620 0000 6788 9328  
RETURN RECEIPT REQUESTED

Water Resources, Inc.  
Registered Agent: Dennis C. Abbott  
5970 Fairview Road, Suite 710  
Charlotte, NC 28210-3124

RE: Rocky River Plantation S/D  
PWSID: NC0113220  
Cabarrus County

Dear Mr. Abbott:

As you know, the referenced water system was approved on April 27, 1989 to serve a residential community with over 50 connections using two wells. In early August 2019, you informed staff of the Public Water Supply (PWS) Section in the Mooresville Regional Office that Well 1 would be taken out of service because the well had violated the Combined Radium Maximum Contaminant Level (MCL) in three consecutive quarters. At that time, PWS Section staff reminded you that North Carolina Administrative Code, Title 15A, Subchapter 18C, Rule .0402(g)(5) [15A NCAC 18C .0402(g)(5)] requires that a residential community water system, using well water as its source of supply and designed to serve 50 or more connections, must provide at least two wells. If a second well cannot be provided, another approved water supply source may be accepted. Your plan of action, which was developed in response to the aforementioned Combined Radium MCL violation and received on August 12, 2019, identified your action for resolving the violation as installing a new connection with the Town of Harrisburg because Well 1 had been deactivated.

Since that time, you have reported that you've been working to complete the connection with the Town of Harrisburg. However, on September 21, 2020, you indicated that progress had stopped when an easement agreement could not be obtained. Furthermore, you have indicated that without the easement agreement, construction cannot progress, which will result in the continued violation of the North Carolina Administrative Code.

This letter serves as written notice that you are operating the water system in violation of the requirements of North Carolina Administrative Code, Title 15A, Subchapter 18C, Rule .0402(g)(5). Although the connection with the Town of Harrisburg is your preferred option for resolving the violation, if the connection with Harrisburg cannot be completed, you must take



other action to resolve the violation. Alternatives include installing a treatment system for the inactivated well (Well 1) and acquiring land for a new well lot so that a new well may be drilled and connected to the existing water system. In either case a qualified professional engineer must design any modification to the existing water system and the modification must be approved by the Department before it can be constructed.

If the violation is not corrected by **January 20, 2021** we will pursue issuance of an administrative penalty. In accordance with General Statute 130A-22(b) and the North Carolina Drinking Water Act (G.S. 130A-311), failure to comply with the *Rules Governing Public Water Systems* may result in the issuance of an Administrative Penalty of up to \$25,000 for each day the violation continues.

If you have any questions or need any additional information, please feel free to contact me at (704) 235-2140.

Sincerely,



Clinton O. Cook, PE  
Regional Engineer  
Division of Water Resources  
Public Water Supply Section

cc: Rebecca Sadosky, PhD, Operations Branch Head, Public Water Supply Section  
Robert W. Midgette, PE, Chief, Public Water Supply Section





21 CV 002102  
**W-1034, Subs 8 & 10**  
**Exhibit E**

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STATE OF NORTH CAROLINA      FILED IN THE GENERAL COURT OF JUSTICE  
 COUNTY OF CABARRUS      SUPERIOR COURT DIVISION  
 2021 JUN 18 P 13:02      21 CVS \_\_\_\_\_

CABARRUS COUNTY, N.C.

STATE OF NORTH CAROLINA, *ex rel.*, )  
 NORTH CAROLINA DEPARTMENT OF )  
 ENVIRONMENTAL QUALITY, )

LC

Plaintiff,

v.

WATER RESOURCES, INC., )

Defendant. )

**COMPLAINT AND MOTION  
 FOR INJUNCTIVE RELIEF**

Sep 29 2022

**INTRODUCTION**

This is an action to abate Defendant’s continued violation of the North Carolina Drinking Water Act and related regulations at the public water supply system at the Rocky River Plantation Subdivision in Harrisburg, Cabarrus County, North Carolina. By this action, the State of North Carolina seeks to remedy Defendant’s violation and abate the environmental and health risks presented by the continued violation. The State of North Carolina, complaining of Defendant, alleges and says:

**PARTIES**

1. Plaintiff is the sovereign State of North Carolina. This action is being brought on the relation of the North Carolina Department of Environmental Quality, the State agency established pursuant to N.C. Gen. Stat. § 143B-279.1 *et seq.*, and vested with the statutory authority to enforce the North Carolina Drinking Water Act contained in Article 10, Chapter 130A

of the General Statutes and the rules promulgated thereunder. N.C. Gen. Stat. § 130A-326. The Division of Water Resources (“DWR”) is a division within DEQ, and the Public Water Supply (“PWS”) Section is a section within DWR. All actions taken by the PWS Section are necessarily actions of the Plaintiff. It is the mission of the PWS Section to promote public health by ensuring that safe, potable water is available in adequate quantities to the residents and visitors of North Carolina served by public water systems by assuring that such systems are properly located, constructed, operated and maintained.

2. Defendant Water Resources, Inc. is a North Carolina corporation with a principal office in Charlotte, North Carolina, and is the supplier of water for the public water supply system, a residential well water system designed to serve 50 or more connections and identified as PWSID # NC0113220, serving the residential community known as the Rocky River Plantation Subdivision in Harrisburg, Cabarrus County, North Carolina.

### **JURISDICTION**

3. Jurisdiction for injunctive relief sought to compel enforcement of a statute or regulation rests in the Superior Court pursuant to N.C. Gen. Stat. § 7A-245(a)(2) and N.C. Gen. Stat. § 1-493. Furthermore, N.C. Gen. Stat. § 130A-18 authorizes actions for injunctive relief in Superior Court for violations of the North Carolina Drinking Water Act.

### **VENUE**

4. Cabarrus County, North Carolina is the proper venue for this action because the violations that are the subject of this action for injunctive relief have occurred or are occurring in Cabarrus County.

### **LEGAL FRAMEWORK**

5. The North Carolina Drinking Water Act, N.C. Gen. Stat. § 130A-311 *et. seq.* is

designed to “regulate water systems within the State which supply drinking water that may affect the public health.” N.C. Gen. Stat. § 130A-312. Pursuant to N.C. Gen. Stat. § 130A-315(a), the Commission for Public Health has adopted drinking water rules to regulate water quality and water treatment operators in 15A NCAC Subchapter 18C and Subchapter 18D, respectively. DEQ is responsible for enforcing the Drinking Water Act and related regulations. N.C. Gen. Stat. §§ 130A-315(a), -326.

6. A public water system is defined as a conveyance system that provides water to the public for human consumption and “serves 15 or more service connections or which regularly serves 25 or more individuals.” N.C. Gen. Stat. § 130A-313(10). Public water systems may be either community or noncommunity water systems. A community water system is one that “serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.” *Id.* Any person who “owns, operates, or controls a public water system” is a “supplier of water.” N.C. Gen. Stat. § 130A-313(11).

7. Pursuant to applicable regulations, the supplier of water for a residential community water system using well water as its source of supply and designed to serve 50 or more connections must provide at least two wells. 15A NCAC 18C .0402(g)(5). The consequences of having only one well for a system serving more than 50 connections is significantly elevated public health risk. Any disruptions, outages or failures of the sole remaining well elevate public health risk due to inadequate pressure in the distribution system which provides opportunity for contaminants to enter the system. Additionally, disruptions in water service further elevate public health risk as washing hands, flushing toilets, bathing, and food preparation are compromised.

8. North Carolina’s drinking water quality standards incorporate the federal maximum contaminant (“MCL”) levels for radionuclides (combined radium) set forth in 40 CFR 141.66.

15A NCAC 18C .1520. Exposure to radionuclides in drinking water may result in an increased risk of cancer.

9. When a supplier of water violates the drinking water rules or the Drinking Water Act, DEQ may impose administrative penalties and may require the supplier to “take actions or make modifications as necessary” to comply with the Drinking Water Act and drinking water rules, N.C. Gen. Stat. §§ 130A-22(b), -326, and institute an action for injunctive relief in the superior court of the county where the violation occurred or where the defendant resides irrespective of all other remedies at law, N.C. Gen. Stat. § 130A-18.

#### **STANDARD FOR INJUNCTIVE RELIEF**

10. DEQ may institute an action for injunctive relief whenever a person violates the Drinking Water Act or the rules adopted thereunder. N.C. Gen. Stat. § 130A-18(b). When the State brings an action to vindicate the public interest pursuant to a statute which provides for injunctive relief to abate violations of law, the usual test for issuance of injunctions need not be met. *State ex rel. Edmisten v. Challenge, Inc.*, 54 N.C. App. 513, 521-22, 284 S.E.2d 333, 338-39 (1981) (explaining that irreparable harm need not be established by the State as long as the statutory conditions for issuance of an injunction exist); *State ex rel. Morgan v. Dare To Be Great, Inc.*, 15 N.C. App. 275, 189 S.E.2d 802 (1972) (negating the general rule that there will be no equitable relief if there is an adequate remedy at law when the statutory scheme provided the State with injunctive relief under the circumstances presented). For example, the State is not required to show actual injury, such as irreparable harm, in order to obtain injunctive relief, including a preliminary injunction. Rather, it must show only that the violative acts or practices adversely affect the public interest. *See Challenge, Inc.*, 54 N.C. App. at 521-22, 284 S.E.2d at 338-39. An adverse effect on the public interest exists as a matter of law where the statutory conditions for

issuance of injunctive relief are present, i.e., where a violation of the applicable statute or regulations exists or is threatened. *Id.* at 522, 284 S.E.2d at 339.

### FACTUAL ALLEGATIONS

11. The Rocky River Plantation subdivision is located in Harrisburg, Cabarrus County, North Carolina. There are over 50 public water connections within the subdivision, serving approximately 264 residents annually. The system is therefore a “public water system” and a “community water system” as defined by N.C. Gen. Stat. § 130A-313(10).

12. Defendant owns and operates the public water system serving Rocky River Plantation subdivision, and is a “supplier of water” pursuant to N.C. Gen. Stat. § 130A-313(11). The public water system is a well water system, was approved in April of 1989 and is identified as PWSID # NC0113220. As it serves greater than 50 connections, North Carolina regulations mandate that the system have two wells. 15A NCAC 18C .0402(g)(5).

13. On December 17, 2018, the PWS Section sent a Notice of Violation (“2018 NOV”) to Defendant for violation of the Combined Radium Standard in one of two wells, “Well 1,” during the period of January 1, 2018 through December 31, 2018. Among other things, the NOV ordered Defendant to return to compliance by June 30, 2019, to develop a plan for reducing the amount of contamination in the system, to submit quarterly status reports, and to advise residents of the violation. A copy of the 2018 NOV is attached hereto as **Exhibit 1**, and incorporated herein by reference.

14. On April 15, 2019, a Notice of Violation (“April 2019 NOV”) was sent to Defendant for continued violation of the Combined Radium Standard in Well 1 during the period of April 1, 2018 through March 31, 2019. A copy of the April 2019 NOV is attached hereto as **Exhibit 2**, and incorporated herein by reference.

15. On June 13, 2019, another NOV (“June 2019 NOV”) was sent to Defendant for continued violation of the Combined Radium Standard in Well 1 during the period of July 1, 2018 through June 30, 2019. A copy of the June 2019 NOV is attached hereto as **Exhibit 3**, and incorporated herein by reference.

16. As Defendant began to explore options for coming into compliance and Well 1 remained in non-compliance, PWS Section staff recommended as a short term solution that Well 1 be taken out of service to protect the community. Well 1 was taken out of service on June 30, 2019. Defendant was aware at that time that the system must operate two wells and that inactivating Well 1 would represent only a short term option. The PWS Section formally approved Defendant’s request to inactivate Well 1 in September of 2019, and advised Defendant at that time that an NOV would be forthcoming for violation of 15A NCAC 18C .0402(g)(5) – the requirement that the system have two wells.

17. On August 12, 2019, the PWS Section received a status report from Defendant wherein Defendant stated that the violation would be resolved by installing a new connection with the Town of Harrisburg. A copy of that status report is attached hereto as **Exhibit 4**, and incorporated herein by reference.

18. On September 17, 2019, the PWS Section received another status report from Defendant outlining necessary steps to implement Defendant’s preferred alternative of connecting to the Town of Harrisburg. A copy of that status report is attached hereto as **Exhibit 5**, and incorporated herein by reference. In transmitting the September 17, 2019 status report, Defendant asked that he be given additional time to come into compliance. A copy of the e-mail requesting the extension is attached hereto as **Exhibit 6**, and incorporated herein by reference.

19. On November 21, 2019, based on the September 17, 2019 request for additional

time, the PWS Section extended the date set forth in the 2018 NOV for returning the system to compliance from June 30, 2019 to September 30, 2020. A copy of the letter granting this extension is attached hereto as **Exhibit 7**, and incorporated herein by reference.

20. On September 21, 2020, less than ten days before the September 30, 2020 deadline for coming into compliance, Defendant claimed that the new connection could not be constructed due to Defendant's inability to obtain an easement agreement from one of the property owners.

21. On October 22, 2020, the PWS Section issued a Notice of Violation ("NOV") to Defendant, explaining that Defendant is operating the water system in continued violation of North Carolina Regulations. The PWS Section further explained that while Defendant's preferred resolution was connection to the Town, if connection to the Town could not be completed Defendant must take other action to resolve the violation. Such alternatives could include installing a treatment system for Well 1 and acquiring land to drill a new well to serve the water system. The NOV further advised the Defendant that if the violation was not corrected by January 20, 2021, the PWS Section would pursue issuance of an administrative penalty. The NOV is attached hereto as **Exhibit 8**, and incorporated herein by reference.

22. On February 3, 2021, the PWS Section assessed an Administrative Penalty against Defendant in the amount of \$4,500 plus a continuing penalty of \$50 per day until Defendant demonstrates that the water system has returned to compliance. In order to resolve the penalty, Defendant was advised that he must return the water system to compliance and pay the total penalty amount within 60 days of service of the penalty. Defendant was also advised of his right to appeal the assessment of the penalty. A copy of the Administrative Penalty is attached hereto as **Exhibit 9**, and incorporated herein by reference.

23. Defendant received the penalty assessment on February 6, 2021. Defendant did not

appeal the assessment. As of April 9, 2021, payment had not been received, and PWS Section staff sent a letter on that date to Defendant advising that the PWS Section was preparing to refer the matter to the North Carolina Attorney General's Office to proceed with a collections action. The PWS Section further advised Defendant that Defendant must take immediate and appropriate action to return to compliance, and that the PWS Section reserved the right to initiate additional legal action through the Attorney General's Office to resolve the ongoing non-compliance issues at the water system. A copy of the April 9, 2021 letter is attached hereto as **Exhibit 10**, and incorporated herein by reference.

#### **CLAIM FOR RELIEF**

24. The allegations contained in Paragraphs 1 through 23 are incorporated into this claim for relief as if fully set forth herein.

25. As of the date that this Complaint was verified, Defendant has failed to bring the water system into compliance and remains in violation of North Carolina's Drinking Water Regulations. Therefore, an adverse effect on the public interest exists as a matter of law. *See Challenge, Inc., supra*, 54 N.C. App. at 522, 284 S.E.2d at 339. Defendant's continued non-compliance exposes residents at the Rocky River Plantation subdivision to significantly elevated public health risks.

26. The State is entitled to preliminary and permanent injunctive relief against Defendant to abate violations of the Drinking Water Act and related regulations set forth in this Complaint pursuant to N.C. Gen. Stat. § 130A-18.

#### **PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff, State of North Carolina, prays that the Court grant the following relief:



1. That this verified Complaint be used as an affidavit upon which to base all orders of the Court.
2. That the Court preliminarily and upon final judgment permanently, enter a prohibitory and/or mandatory injunction requiring Defendant to
  - a. Within 30 days of the entry of an order or judgment in this matter, submit to the PWS Section for review and approval (which may include the addition of conditions by the PWS Section) a plan to interconnect the Rocky River Plantation system to the Town of Harrisburg water system, as presented in Defendant's August 12, 2019 plan, attached hereto as Ex. 4. The plan shall be submitted in accordance with the Rules Governing Public Water Systems, 15A NCAC 18C .0301 - .0309, and must include a proposed schedule setting forth the number of days for the completion of the following activities:
    - i. Submitting complete engineering plans, specifications and reports for the interconnection to the Town of Harrisburg,
    - ii. Completing construction and submitting an Engineer's Certification and Applicant's Certification for the completed interconnection to the Town of Harrisburg, and
    - iii. Placing the interconnection into active service.
  - b. Alternatively, within 30 days of the entry of an order or judgment in this matter, submit to the PWS Section for review and approval (which may include the addition of conditions by the PWS Section) a plan for an alternative means of returning the system to compliance, such as installing a treatment system for Well 1 or installing a new well to serve the community. The plan shall be

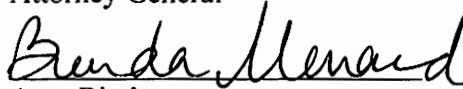
submitted in accordance with the Rules Governing Public Water Systems, 15A NCAC 18C .0301 - .0309, and must set forth the activities necessary for implementation, and a proposed schedule setting forth the number of days for completion of each activity.

- c. Utilize a qualified professional engineer licensed to practice in the State of North Carolina to design any option for returning the system to compliance that involves modification of the existing water system; and
  - d. Obtain approval from the PWS Section prior to construction of any option for returning the system to compliance that involves modification of the existing water system.
3. That the costs of this action, including attorneys' fees, if allowable, be taxed against Defendant.
  4. That this Court grant such other and further relief as the Court shall deem to be just and proper.

This the 17<sup>th</sup> day of June, 2021.

JOSHUA H. STEIN  
Attorney General

By:



Amy Bircher  
Special Deputy Attorney General  
N.C. State Bar No. 21926  
[abircher@ncdoj.gov](mailto:abircher@ncdoj.gov)  
N.C. Department of Justice  
Environmental Division  
60 Court Plaza, 8th Floor  
Asheville, NC 28801  
Telephone: (828) 393-6823

Brenda Menard  
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[bmenard@ncdoj.gov](mailto:bmenard@ncdoj.gov)  
N.C. Department of Justice  
Environmental Division  
PO Box 629  
Raleigh, NC 27602  
Telephone: (919) 716-6600

*Attorneys for Plaintiff*

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

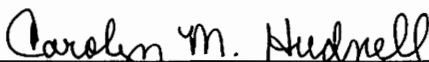
VERIFICATION

ROBERT W. MIDGETTE being duly sworn, deposes and says he is the Chief of the Public Water Supply Section within the Division of Water Resources, of the North Carolina Department of Environmental Quality, that he has read the foregoing COMPLAINT AND MOTION FOR INJUNCTIVE RELIEF and that he is acquainted with all of the facts and circumstances stated therein; that the same is true of his own knowledge except as to those matters and things stated and alleged upon information and belief, and as to those matters and things he believes them to be true.

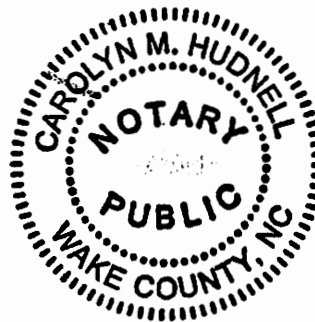
  
ROBERT W. MIDGETTE

Subscribed and sworn to before me

this the 17<sup>th</sup> day of JUNE 2021.

  
Notary Public

My Commission Expires: 12-14-2023

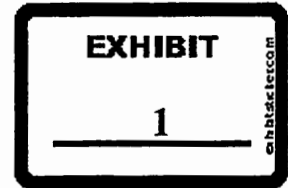


ROY COOPER  
*Governor*  
MICHAEL S. REGAN  
*Secretary*  
LINDA CULPEPPER  
*Interim Director*



NORTH CAROLINA  
*Environmental Quality*

December 17, 2018



NC0113220\_20181217\_RAD\_MCL\_NOV\_20184Q\_SS1.pdf

TO: WATER RESOURCES INC  
5970 FAIRVIEW RD SUITE 710  
ATTN DENNIS ABBOTT  
CHARLOTTE, NC 28210-3167

RE: ROCKY RIVER PLANTATION S/D  
Water System Number: NC0113220  
County: CABARRUS  
Facility ID # / Sample Point ID: SS1 / E03

### NOTICE OF VIOLATION

**Radionuclides Maximum Contaminant Level (MCL) Violation:** ROCKY RIVER PLANTATION S/D is in violation of the COMBINED RADIUM MCL allowed by North Carolina's Rules Governing Public Water Systems (15A NCAC 18C Section .1520). The COMBINED RADIUM running annual average (RAA) concentration of the water samples from Facility ID # / Sample Point ID: SS1 / E03 during the compliance period of January 1, 2018 through December 31, 2018 was 6 mg/l, which exceeds the established MCL of 5 mg/l.

### ADMINISTRATIVE ORDER

The N.C. Drinking Water Act and Rules Governing Public Water Systems require a water supplier to provide water that does not exceed the COMBINED RADIUM MCL and provide public notice of the MCL violation as indicated in this Order and to comply with the monitoring requirements, water quality standards and the design, treatment and operation requirements for public water systems.

**IT IS HEREBY ORDERED** that WATER RESOURCES INC shall return to compliance as follows:

- Develop a Plan and Submit Quarterly Status Reports:** Develop a written plan for permanently reducing the amount of contamination in your public water system. Until the MCL violation is resolved, submit quarterly written status reports to the Rule Manager and Regional Office identified below. These reports must describe your compliance plan and list the actions (including dates) taken so far to resolve the contamination and any planned future actions (including dates) necessary. The initial report is due within thirty (30) days of this letter with updates due quarterly on March 31<sup>st</sup>, June 30<sup>th</sup>, September 30<sup>th</sup> and December 31<sup>st</sup>. The initial report must specify the date compliance is expected to be achieved. Each report should be a complete and growing list of all actions taken and planned (including dates) by your system to permanently reduce the contamination and provide safe water to your customers. Once the required follow-up monitoring results indicate the contaminant concentrations are reliably and consistently below the MCL, the status reports are no longer required. Please be sure to identify your water system's name and number on all correspondence.
- Reduce COMBINED RADIUM Levels:** The public water system serving ROCKY RIVER PLANTATION S/D shall comply with the MCL for COMBINED RADIUM by **June 30, 2019**.
- Monitor Quarterly:** Collect the required water samples for COMBINED RADIUM on a quarterly basis until further notice, and have all water samples analyzed by a North Carolina certified laboratory. Your laboratory is responsible for electronically reporting your analytical results to the Public Water Supply Section. We recommend that you check our website links to "Sampling Status" and/or "Drinking Water Watch" and follow-up with your laboratory, as necessary, to ensure we receive your sample results.
- Provide public notification:** If you haven't already done so, immediately provide public notification of the MCL violation cited above as required by 15A NCAC 18C .1523. See the enclosed sample notice with instructions. Failure to provide public notification as required is a violation of 15A NCAC 18C .1523.



- 5. **Submit a copy of your completed Notice to the Public and Public Notification Certification to the Public Water Supply Section:** Immediately after you have distributed the notices to your customers, use our web-based certification process "ECERT" to submit a copy of the completed notice with your signature and date on the Public Notification Certification (located at the bottom of our template notice) indicating full compliance with all the public notification requirements. Access to ECERT is available from our website or the following link: <https://pws.ncwater.org/ECERT/>. If you do not have internet access, mail the completed notice to Bethany Goodwin at 1634 Mail Service Center, Raleigh, NC 27699-1634. Retain a copy of these documents for your files.

**Note:** If you do not provide the required public notification to your customers and submit a signed certification with the notice to the Public Water Supply Section, you may be subject to an administrative penalty.

- 6. **Notify the Rule Manager:** If events or conditions beyond your control will prevent you from complying with your written action plan or meeting the MCL compliance date, notify the Rule Manager noted below, in writing within ten (10) business days of the event or condition causing the delay. The notice shall describe in detail the reason for the delay and propose a new compliance timetable. If you establish good cause, the Division and you may jointly stipulate and agree to a written modification of the compliance dates.

**ENFORCEMENT AUTHORITY**

This Notice of Violation and Administrative Order are issued pursuant to authority in G.S. 130A-325 and G.S. 130A-326. Any person who violates, fails to comply or refuses to comply with any of the provisions of this Order is subject to an administrative penalty under G.S. 130A-22(b). The agency reserves the right to take enforcement action for any new or additional violations of the NC Drinking Water Act or North Carolina's Rules Governing Public Water Systems, 15A NCAC 18C.


**ADDITIONAL INFORMATION**

Please include your water system's name and number on all correspondence. Our website contains links to "Sampling Status" which allows systems to view their current monitoring schedules for each contaminant group and to "Drinking Water Watch" which allows systems to view their monitoring results and other system information. Copies of North Carolina's Rules Governing Public Water Systems can also be found on our website at [www.ncwater.org](http://www.ncwater.org).

**SUBMITTAL OF INFORMATION AND PUBLIC WATER SUPPLY CONTACTS**

Quarterly status reports should be submitted to Emily Lester, Radionuclides Rule Manager, at 1634 Mail Service Center, Raleigh, NC 27699-1634. If you have any questions or need assistance regarding this violation, please contact Emily Lester, by phone at (919) 707-9099 or by e-mail at [emily.lester@ncdenr.gov](mailto:emily.lester@ncdenr.gov). A copy of each quarterly status report should also be sent to your regional office contact, Clinton Cook, Regional Engineer. Clinton Cook can be reached at (704) 235-2140 or by mail at 610 East Center Avenue, Suite 301, Mooresville, North Carolina 28115.

If you have questions or need assistance regarding public notification, please contact Bethany Goodwin, Public Notification Rule Manager, at (919) 707-9079 or by e-mail at [Bethany.Goodwin@ncdenr.gov](mailto:Bethany.Goodwin@ncdenr.gov)

BY:   
 Linda F. Raynor  
 Compliance Services Branch Head  
 Public Water Supply Section  
 Division of Water Resources, NCDEQ

Enclosures: Notice to the Public/Public Notification Certification Form

cc: MOORESVILLE REGIONAL OFFICE  
 Responsible Person: METREYEON, DUSTY

# NOTICE TO THE PUBLIC

## IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

### ROCKY RIVER PLANTATION S/D Has Levels of COMBINED RADIUM Above Drinking Water Standards

Our water system recently violated a drinking water standard. Although this is not an emergency, as our customers, you have a right to know what happened, what you should do, and what we did (are doing) to correct this situation.

We routinely monitor for the presence of drinking water contaminants. Monitoring results for samples collected from Facility ID / Sample Point: SS1 / E03 during the compliance period ending December 31, 2018 showed that our system exceeds the standard, or maximum contaminant level (MCL), for COMBINED RADIUM. The standard for COMBINED RADIUM is 5 mg/l. The average level of COMBINED RADIUM over the last year was 6 mg/l.

#### What should I do?

- There is nothing you need to do. You do not need to boil your water or take other corrective actions. However, if you have specific health concerns, consult your doctor.
- If you have a severely compromised immune system, have an infant, are pregnant, or are elderly, you may be at increased risk and should seek advice from your health care providers about drinking this water.

#### What does this mean?

This is not an emergency. If it had been, you would have been notified within 24 hours. However, **some people who drink water containing radium 226 or 228 in excess of the MCL over many years may have an increased risk of getting cancer.**

#### What is being done?

[Water system to describe corrective action.] We anticipate resolving the problem within [estimated time frame].

**Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.**

For more information, please contact:

Responsible Person	System Name ROCKY RIVER PLANTATION S/D	System Address (Street)
Phone Number	System Number NC0113220	System Address (City, State, Zip)

Notice of Violation/Administrative Order Date: December 17, 2018

Date Notice Distributed: \_\_\_\_\_ Method of Distribution: \_\_\_\_\_

#### Public Notification Certification:

The public water system named above hereby affirms that public notification has been provided to its consumer in accordance with all delivery, content, format, and deadline requirements specified in 15A NCAC 18C .1523.

Owner/Operator: \_\_\_\_\_ (Signature) \_\_\_\_\_ (Print Name) \_\_\_\_\_ (Date)

## Instructions for COMBINED RADIUM MCL Notice – Tier 2 Violation

Since exceeding the COMBINED RADIUM maximum contaminant level (MCL) is a Tier 2 violation, you must provide public notice to persons served as soon as practical but within **30 days** after you learn of the violation [40 CFR 141.203(b)]. You must issue a repeat notice every three months for as long as the violation persists.

**Community systems** must use one of the following methods [40 CFR 141.203(c)]:

- Hand or direct delivery
- Mail, as a separate notice or included with the bill

**Non-community systems** must use one of the following methods [40 CFR 141.203(c)]:

- Posting in conspicuous locations
- Hand delivery
- Mail

In addition, both community and non-community systems must use *another* method reasonably calculated to reach others **IF** they would not be reached by the first method [40 CFR 141.203(c)]. Such methods could include newspapers, e-mail, or delivery to community organizations.

**You must also perform the following:**

- If you mail, post, or hand deliver, print your notice on your system's letterhead, if available.
- Notify new billing customers or units prior to or at the time their service begins.
- Provide multi-lingual notifications if 30% of the residents served are non-English speaking.

The notice on the reverse is appropriate for mailing, posting, or hand delivery. If you modify the notice, you must still include all required PN elements from 40 CFR 141.205(a), and the standard language (including the health effects language) in ***bold italics*** must not be changed. This language is mandatory [40 CFR 141.205(d)].

### **Corrective Action**

In your notice, describe correction actions you are taking. Do not use overly technical terminology when describing treatment methods. Listed below are some steps commonly taken by water systems with chemical or radiological violations. Depending on the corrective action you are taking, you can use one or more of the following statements, if appropriate, or develop your own text:

- We are working with [local/state agency] to evaluate the water supply and are researching options to correct the problem. These options may include treating the water to remove COMBINED RADIUM or connecting to [system]'s water supply.
- We have stopped using the contaminated well. We have increased pumping from other wells, and we are investigating drilling a new well.
- We have increased the frequency that we will test the water for COMBINED RADIUM.
- We have since taken samples at this location and had them tested. These samples show that we meet the standards.

### **Repeat Notices**

If this is an ongoing violation and/or you fluctuate above and below the MCL, you should give the history behind the violation, including the source of contamination, if known. List the date of the initial detection, as well as how levels have changed over time. If levels are changing as a result of treatment, you can indicate this.

### **After Issuing the Notice [40 CFR 141.31(d)]**

After issuing the "Notice to the Public" to your customers, sign and date the "Public Notification Certification" at the bottom of the notice. Within ten days after issuing the notice [CFR 141.31(d)], email the completed Public Notice/Certification form to [PWSS.PN@ncdenr.gov](mailto:PWSS.PN@ncdenr.gov) or mail to the Public Water Supply Section, ATTN: Public Notification Rule Manager, 1634 Mail Service Center, Raleigh, NC 27699-1634 or use our new on-line ECERT application located on our website at: <https://pws.ncwater.org/ECERT/pages/default.aspx>. Keep a copy for your files.

It is a good idea to inform your consumers when the violation is resolved.

(11/2018)



Water System Number: NC0113220, CABARRUS County  
METREYEON, DUSTY  
1000 WOODHURST DR  
MONROE, NC 28110-7312

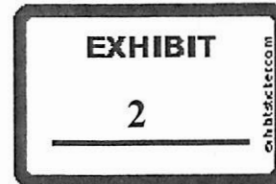
ROY COOPER  
Governor

MICHAEL S. REGAN  
Secretary

LINDA CULPEPPER  
Director



NORTH CAROLINA  
Environmental Quality



NC0113220\_20190415\_RAD\_MCL\_NOV\_20191Q\_SS1.pdf

## **NOTICE OF VIOLATION**

NC Drinking Water Act and Rules Governing Public Water Systems

April 15, 2019

Water System Number: NC0113220, CABARRUS COUNTY  
ROCKY RIVER PLANTATION S/D  
WATER RESOURCES INC  
5970 FAIRVIEW RD SUITE 710  
ATTN DENNIS ABBOTT  
CHARLOTTE, NC 28210-3167

**ACTION REQUIRED**

**Re: Continuing Violation of COMBINED RADIUM MCL (Based on Running Annual Average)  
Administrative Order Previously Issued – Upcoming Compliance Deadline**

ROCKY RIVER PLANTATION S/D is in violation of the COMBINED RADIUM maximum contaminant level (MCL) allowed by North Carolina's Rules Governing Public Water Systems (15A NCAC 18C Section .1520). The COMBINED RADIUM running annual average (RAA) concentration of the water samples from Facility ID / Sample Point: SS1 / E03 during the compliance period of April 1, 2018 through March 31, 2019 was 8 pCi/L, which exceeds the established MCL of 5 pCi/L.

WATER RESOURCES INC has already received a Notice of Violation/Administrative Order (NOV/AO) for exceedance of the COMBINED RADIUM MCL, and that order has a June 30, 2019 compliance deadline.

### **MCL EXCEEDANCE REQUIREMENTS**

Because the MCL has been exceeded, you are required by the Rules Governing Public Water Systems to do all of the following:

- 1. Monitor Quarterly:** Continue to collect drinking water samples quarterly and have them analyzed for COMBINED RADIUM by a North Carolina certified laboratory. Once the minimum requirements to reduce monitoring as specified in 15A NCAC 18C Section .1519 [40 CFR 141.26(a)(3)] have been met, contact the rule manager listed below to request a reduction in monitoring frequency. The Public Water Supply Section will then evaluate your sampling results, determine if the COMBINED RADIUM concentrations in the water serving ROCKY RIVER PLANTATION S/D are reliably and consistently below the maximum contaminant level (MCL) and grant a reduction in your monitoring frequency, if warranted.
- 2. Provide public notification:** If you haven't already done so, immediately provide public notification of the MCL violation cited above as required by 15A NCAC 18C .1523. See the enclosed sample notice with instructions. Failure to provide public notification as required is a violation of 15A NCAC 18C .1523.
- 3. Submit a copy of your completed Notice to the Public and Public Notification Certification to the Public Water Supply Section:** Immediately after you have distributed the notices to your customers, use our web-based certification process "ECERT" to submit a copy of the completed notice with your signature and date on the Public Notification Certification (located at the bottom of our template notice) indicating full compliance with all the public notification requirements. Access to ECERT is available from our website or the following link: <https://pws.ncwater.org/ECERT/>. If you do not have internet access, mail the completed notice to Bethany Goodwin at 1634 Mail Service Center, Raleigh, NC 27699-1634. Retain a copy of these documents for your files.



North Carolina Department of Environmental Quality | Division of Water Resources  
512 North Salisbury Street | 1634 Mail Service Center | Raleigh, North Carolina 27699-1634  
919.707.9000

OFFICIAL COPY

Sep 29 2022

**Note:** If you do not provide the required public notification to your customers and submit a signed certification with the notice to the Public Water Supply Section, you may be subject to an administrative penalty.

### **RETURN TO COMPLIANCE**

You must **permanently reduce** the amount of COMBINED RADIUM in your public water system below the MCL to avoid future MCL violations and enforcement action. Until the MCL violation is resolved, submit quarterly written status reports as specified in your NOV/AO dated December 17, 2018. The agency reserves the right to take enforcement action for any new or additional violations of the NC Drinking Water Act or North Carolina's Rules Governing Public Water Systems, 15A NCAC 18C.

### **ADDITIONAL INFORMATION**

Please include your water system's name and number on all correspondence. Our website contains links to "Sampling Status" which allows systems to view their current monitoring schedules for each contaminant group and to "Drinking Water Watch" which allows systems to view their monitoring results and other system information. Copies of North Carolina's Rules Governing Public Water Systems can also be found on our website at [www.ncwater.org](http://www.ncwater.org).

### **SUBMITTAL OF INFORMATION AND PUBLIC WATER SUPPLY CONTACTS**

Quarterly status reports should be submitted to Emily Lester, Radionuclides Rule Manager, at 1634 Mail Service Center, Raleigh, NC 27699-1634. If you have any questions or need assistance regarding this violation, please contact Emily Lester, by phone at (919) 707-9099 or by e-mail at [emily.lester@ncdenr.gov](mailto:emily.lester@ncdenr.gov). A copy of each quarterly status report should also be sent to your regional office contact, Clinton Cook, Regional Engineer. Clinton Cook can be reached at (704) 235-2140 or by mail at 610 East Center Avenue, Suite 301, Mooresville, North Carolina 28115.

If you have questions or need assistance regarding public notification, please contact Bethany Goodwin, Public Notification Rule Manager, at (919) 707-9079 or by e-mail at [Bethany.Goodwin@ncdenr.gov](mailto:Bethany.Goodwin@ncdenr.gov).

Sincerely,



Linda F. Raynor  
Compliance Services Branch Head  
Public Water Supply Section  
Division of Water Resources, NCDENR

Enclosures: Notice to the Public/Public Notification Certification Form

cc: MOORESVILLE REGIONAL OFFICE

# NOTICE TO THE PUBLIC

## IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

### ROCKY RIVER PLANTATION S/D Has Levels Of COMBINED RADIUM Above Drinking Water Standards

Our water system recently violated a drinking water standard. Although this is not an emergency, as our customers, you have a right to know what happened, what you should do, and what we did (are doing) to correct this situation.

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#### What should I do?

- There is nothing you need to do. You do not need to boil your water or take other corrective actions. However, if you have specific health concerns, consult your doctor.
- If you have a severely compromised immune system, have an infant, are pregnant, or are elderly, you may be at increased risk and should seek advice from your health care providers about drinking this water.

#### What does this mean?

This is not an emergency. If it had been, you would have been notified within 24 hours. However, *some people who drink water containing radium 226 or 228 in excess of the MCL over many years may have an increased risk of getting cancer.*

#### What is being done?

[Water system to describe corrective action.] We anticipate resolving the problem within [estimated time frame].

*Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.*

For more information, please contact:

Responsible Person	System Name ROCKY RIVER PLANTATION S/D	System Address (Street)
Phone Number	System Number NC0113220	System Address (City, State, Zip)

Notice of Violation/Administrative Order Date: **April 15, 2019**

Date Notice Distributed: \_\_\_\_\_ Method of Distribution: \_\_\_\_\_

#### Public Notification Certification:

The public water system named above hereby affirms that public notification has been provided to its consumer in accordance with all delivery, content, format, and deadline requirements specified in 15A NCAC 18C .1523.

Owner/Operator: \_\_\_\_\_ (Signature) \_\_\_\_\_ (Print Name) \_\_\_\_\_ (Date)

## COMBINED RADIUM MCL Notice – Tier 2 Violation

Since exceeding the COMBINED RADIUM maximum contaminant level (MCL) is a Tier 2 violation, you must provide public notice to persons served as soon as practical but within **30 days** after you learn of the violation (40 CFR 141.203(b)). You must issue a repeat notice every three months for as long as the violation persists.

**Community systems** must use one of the following methods [40 CFR 141.203(c)]:

- Hand or direct delivery
- Mail, as a separate notice or included with the bill

**Non-community systems** must use one of the following methods [40 CFR 141.203(c)]:

- Posting in conspicuous locations
- Hand delivery
- Mail

In addition, **both** community and non-community systems must use *another* method reasonably calculated to reach others **IF** they would not be reached by the first method [40 CFR 141.203(c)]. Such methods could include newspapers, e-mail, or delivery to community organizations.

**You must also perform the following:**

- If you mail, post, or hand deliver, print your notice on letterhead, if available.
- Notify new billing customers or units prior to or at the time their service begins.
- Provide multi-lingual notifications if 30% of the residents served are non-English speaking.

The notice on the reverse is appropriate for mailing, posting, or hand delivery. If you modify the notice, you must still include all required PN elements from 40 CFR 141.205(a), and the standard language (including the health effects language) in ***bold italics*** must not be changed. This language is mandatory [40 CFR 141.205(d)].

### **Corrective Action**

In your notice, describe correction actions you are taking. Do not use overly technical terminology when describing treatment methods. Listed below are some steps commonly taken by water systems with chemical or radiological violations. Depending on the corrective action you are taking, you can use one or more of the following statements, if appropriate, or develop your own text:

- We are working with [local/state agency] to evaluate the water supply and are researching options to correct the problem. These options may include treating the water to remove COMBINED RADIUM or connecting to [system]'s water supply.
- We have stopped using the contaminated well. We have increased pumping from other wells, and we are investigating drilling a new well.
- We have increased the frequency that we will test the water for COMBINED RADIUM.
- We have since taken samples at this location and had them tested. These samples show that we meet the standards.

### **Repeat Notices**

If this is an ongoing violation and/or you fluctuate above and below the MCL, you should give the history behind the violation, including the source of contamination, if known. List the date of the initial detection, as well as how levels have changed over time. If levels are changing as a result of treatment, you can indicate this.

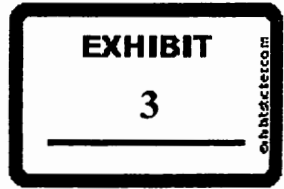
### **After Issuing the Notice [40 CFR 141.31(d)]**

After issuing the "Notice to the Public" to your customers, **sign and date** the "Public Notification Certification" at the bottom of the notice. Within **ten days** after issuing the notice [CFR 141.31(d)], email the completed Public Notice/Certification form to [PWSS.PN@ncdenr.gov](mailto:PWSS.PN@ncdenr.gov) or mail to the Public Water Supply Section, ATTN: Public Notification Rule Manager, 1634 Mail Service Center, Raleigh, NC 27699-1634 or use our new on-line ECERT application located on our website at: <https://pws.ncwater.org/ECERT/pages/default.aspx>. Keep a copy for your files.

It is a good idea to inform your consumers when the violation is resolved.

(11/2018)

ROY COOPER  
Governor  
MICHAEL S. REGAN  
Secretary  
LINDA CULPEPPER  
Director



OFFICIAL COPY

NC0113220\_20190613\_RAD\_MCL\_NOV\_20192Q\_SS1.pdf

## NOTICE OF VIOLATION

NC Drinking Water Act and Rules Governing Public Water Systems

June 13, 2019

Water System Number: NC0113220, CABARRUS COUNTY  
ROCKY RIVER PLANTATION S/D  
WATER RESOURCES INC  
5970 FAIRVIEW RD SUITE 710  
ATTN DENNIS ABBOTT  
CHARLOTTE, NC 28210-3167

**ACTION REQUIRED**

Sep 29 2022

**Re: Continuing Violation of COMBINED RADIUM MCL (Based on Running Annual Average) Administrative Order Previously Issued – Upcoming Compliance Deadline**

ROCKY RIVER PLANTATION S/D is in violation of the COMBINED RADIUM maximum contaminant level (MCL) allowed by North Carolina's Rules Governing Public Water Systems (15A NCAC 18C Section .1520). The COMBINED RADIUM running annual average (RAA) concentration of the water samples from Facility ID / Sample Point: SS1 / E03 during the compliance period of July 1, 2018 through June 30, 2019 was 9 pCi/L, which exceeds the established MCL of 5 pCi/L.

WATER RESOURCES INC has already received a Notice of Violation/Administrative Order (NOV/AO) for exceedance of the COMBINED RADIUM MCL, and that order has a June 30, 2019 compliance deadline.

### MCL EXCEEDANCE REQUIREMENTS

Because the MCL has been exceeded, you are required by the Rules Governing Public Water Systems to do all of the following:

- 1. Monitor Quarterly:** Continue to collect drinking water samples quarterly and have them analyzed for COMBINED RADIUM by a North Carolina certified laboratory. Once the minimum requirements to reduce monitoring as specified in 15A NCAC 18C Section .1519 [40 CFR 141.26(a)(3)] have been met, contact the rule manager listed below to request a reduction in monitoring frequency. The Public Water Supply Section will then evaluate your sampling results, determine if the COMBINED RADIUM concentrations in the water serving ROCKY RIVER PLANTATION S/D are reliably and consistently below the maximum contaminant level (MCL) and grant a reduction in your monitoring frequency, if warranted.
- 2. Provide public notification:** If you haven't already done so, immediately provide public notification of the MCL violation cited above as required by 15A NCAC 18C .1523. See the enclosed sample notice with instructions. Failure to provide public notification as required is a violation of 15A NCAC 18C .1523.
- 3. Submit a copy of your completed Notice to the Public and Public Notification Certification to the Public Water Supply Section:** Immediately after you have distributed the notices to your customers, use our web-based certification process "ECERT" to submit a copy of the completed notice with your signature and date on the Public Notification Certification (located at the bottom of our template notice) indicating full compliance with all the public notification requirements. Access to ECERT is available from our website or the following link: <https://pws.ncwater.org/ECERT/>. If you do not have internet access, mail the completed notice to Bethany



North Carolina Department of Environmental Quality | Division of Water Resources  
512 North Salisbury Street | 1634 Mail Service Center | Raleigh, North Carolina 27699-1634  
919.707.9000

Goodwin at 1634 Mail Service Center, Raleigh, NC 27699-1634. Retain a copy of these documents for your files.

**Note:** If you do not provide the required public notification to your customers and submit a signed certification with the notice to the Public Water Supply Section, you may be subject to an administrative penalty.

### **RETURN TO COMPLIANCE**

You must **permanently reduce** the amount of COMBINED RADIUM in your public water system below the MCL to avoid future MCL violations and enforcement action. Until the MCL violation is resolved, submit quarterly written status reports as specified in your NOV/AO dated December 17, 2018. The agency reserves the right to take enforcement action for any new or additional violations of the NC Drinking Water Act or North Carolina's Rules Governing Public Water Systems, 15A NCAC 18C.

### **ADDITIONAL INFORMATION**

Please include your water system's name and number on all correspondence. Our website contains links to "Sampling Status" which allows systems to view their current monitoring schedules for each contaminant group and to "Drinking Water Watch" which allows systems to view their monitoring results and other system information. Copies of North Carolina's Rules Governing Public Water Systems can also be found on our website at [www.ncwater.org](http://www.ncwater.org).

### **SUBMITTAL OF INFORMATION AND PUBLIC WATER SUPPLY CONTACTS**

Quarterly status reports should be submitted to Haris Ali, Radionuclides Rule Manager, at 1634 Mail Service Center, Raleigh, NC 27699-1634. If you have any questions or need assistance regarding this violation, please contact Haris Ali, by phone at (919) 707-9091 or by e-mail at [haris.ali@ncdenr.gov](mailto:haris.ali@ncdenr.gov). A copy of each quarterly status report should also be sent to your regional office contact, CLINTON COOK, P.E., Regional Engineer. CLINTON COOK, P.E. can be reached at (704) 235-2140 or by mail at 610 East Center Avenue, Suite 301, Mooresville, North Carolina 28115.

If you have questions or need assistance regarding public notification, please contact Bethany Goodwin, Public Notification Rule Manager, at (919) 707-9079 or by e-mail at [Bethany.Goodwin@ncdenr.gov](mailto:Bethany.Goodwin@ncdenr.gov).

Sincerely,



Linda F. Raynor  
Compliance Services Branch Head  
Public Water Supply Section  
Division of Water Resources, NCDENR

Enclosures: Notice to the Public/Public Notification Certification Form

cc: MOORESVILLE REGIONAL OFFICE  
METREYEON, DUSTY

# NOTICE TO THE PUBLIC

## IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

### ROCKY RIVER PLANTATION S/D Has Levels Of COMBINED RADIUM Above Drinking Water Standards

Our water system recently violated a drinking water standard. Although this is not an emergency, as our customers, you have a right to know what happened, what you should do, and what we did (are doing) to correct this situation.

We routinely monitor for the presence of drinking water contaminants. Monitoring results for samples collected from Facility ID / Sample Point: SS1 / E03 during the time period of July 1, 2018 through June 30, 2019 showed that our system exceeds the standard, or maximum contaminant level (MCL), for COMBINED RADIUM. The standard for COMBINED RADIUM is 5 pCi/L. The average level of COMBINED RADIUM over the last year was 9 pCi/L.

#### What should I do?

- There is nothing you need to do. You do not need to boil your water or take other corrective actions. However, if you have specific health concerns, consult your doctor.
- If you have a severely compromised immune system, have an infant, are pregnant, or are elderly, you may be at increased risk and should seek advice from your health care providers about drinking this water.

#### What does this mean?

This is not an emergency. If it had been, you would have been notified within 24 hours. However, *some people who drink water containing radium 226 or 228 in excess of the MCL over many years may have an increased risk of getting cancer.*

#### What is being done?

[Water system to describe corrective action.] We anticipate resolving the problem within [estimated time frame].

*Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.*

For more information, please contact:

Responsible Person	System Name ROCKY RIVER PLANTATION S/D	System Address (Street)
Phone Number	System Number NC0113220	System Address (City, State, Zip)

Notice of Violation/Administrative Order Date: June 13, 2019

Date Notice Distributed: \_\_\_\_\_ Method of Distribution: \_\_\_\_\_

#### Public Notification Certification:

The public water system named above hereby affirms that public notification has been provided to its consumer in accordance with all delivery, content, format, and deadline requirements specified in 15A NCAC 18C .1523.

Owner/Operator: \_\_\_\_\_ (Signature) \_\_\_\_\_ (Print Name) \_\_\_\_\_ (Date)



## COMBINED RADIUM MCL Notice – Tier 2 Violation

Since exceeding the COMBINED RADIUM maximum contaminant level (MCL) is a Tier 2 violation, you must provide public notice to persons served as soon as practical but within **30 days** after you learn of the violation (40 CFR 141.203(b)). You must issue a repeat notice every three months for as long as the violation persists.

**Community systems** must use one of the following methods [40 CFR 141.203(c)]:

- Hand or direct delivery
- Mail, as a separate notice or included with the bill

**Non-community systems** must use one of the following methods [40 CFR 141.203(c)]:

- Posting in conspicuous locations
- Hand delivery
- Mail

In addition, both community and non-community systems must use *another* method reasonably calculated to reach others **IF** they would not be reached by the first method [40 CFR 141.203(c)]. Such methods could include newspapers, e-mail, or delivery to community organizations.

**You must also perform the following:**

- If you mail, post, or hand deliver, print your notice on letterhead, if available.
- Notify new billing customers or units prior to or at the time their service begins.
- Provide multi-lingual notifications if 30% of the residents served are non-English speaking.

The notice on the reverse is appropriate for mailing, posting, or hand delivery. If you modify the notice, you must still include all required PN elements from 40 CFR 141.205(a), and the standard language (including the health effects language) in ***bold italics*** must not be changed. This language is mandatory [40 CFR 141.205(d)].

### **Corrective Action**

In your notice, describe correction actions you are taking. Do not use overly technical terminology when describing treatment methods. Listed below are some steps commonly taken by water systems with chemical or radiological violations. Depending on the corrective action you are taking, you can use one or more of the following statements, if appropriate, or develop your own text:

- We are working with [local/state agency] to evaluate the water supply and are researching options to correct the problem. These options may include treating the water to remove COMBINED RADIUM or connecting to [system]'s water supply.
- We have stopped using the contaminated well. We have increased pumping from other wells, and we are investigating drilling a new well.
- We have increased the frequency that we will test the water for COMBINED RADIUM.
- We have since taken samples at this location and had them tested. These samples show that we meet the standards.

### **Repeat Notices**

If this is an ongoing violation and/or you fluctuate above and below the MCL, you should give the history behind the violation, including the source of contamination, if known. List the date of the initial detection, as well as how levels have changed over time. If levels are changing as a result of treatment, you can indicate this.

### **After Issuing the Notice [40 CFR 141.31(d)]**

After issuing the "Notice to the Public" to your customers, sign and date the "Public Notification Certification" at the bottom of the notice. Within ten days after issuing the notice [CFR 141.31(d)], email the completed Public Notice/Certification form to [PWSS.PN@ncdenr.gov](mailto:PWSS.PN@ncdenr.gov) or mail to the Public Water Supply Section, ATTN: Public Notification Rule Manager, 1634 Mail Service Center, Raleigh, NC 27699-1634 or use our new on-line ECERT application located on our website at: <https://pws.ncwater.org/ECERT/pages/default.aspx>. Keep a copy for your files.

It is a good idea to inform your consumers when the violation is resolved.

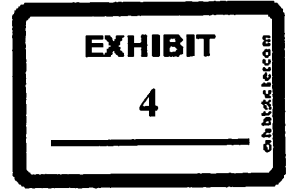
(11/2018)

Water System Number: NC0113220, CABARRUS County

METREYEON, DUSTY  
1000 WOODHURST DR  
MONROE, NC 28210-3167

# Water Resources, Inc.

5970 Fairview Rd, Suite 710  
Charlotte, NC 28210



OFFICIAL COPY

Sep 29 2022

August 12, 2019

Mr. Steve Proctor  
Public Water Supply Section  
North Carolina Department of Environment Quality  
Division of Water Quality, Compliance Services Branch  
512 N Salisbury St  
Raleigh, NC 27699-1634

RE: **Notice of Deficiencies – Radionuclides**  
Rocky River Plantation PWSID: NC0113220  
Cabarrus County

Dear Mr. Proctor:

Please see the status below of the above subject. Please let me know if you have any further questions.

1. **Develop a written plan for permanently reducing the amount of reducing the amount of contamination in your water system**
  - Response of May 15, 2019 - We are pursuing discussions with the Town of Harrisburg to tie onto their system with a master meter. Our water lines extend to the intersection of Rocky River Rd and Rocky Ridge Ln. The Town of Harrisburg has a water main that runs along Rocky River Rd across the street from the end of our 8" water main. This system was designed and built in anticipation of this being an option one day. If the Town of Harrisburg is willing to do so, this will require a formal agreement put in place with the Town of Harrisburg, engineering drawings, state approval, letting of construction contracts, construction, and the approval of the NC Utilities Commission. We would anticipate that all of this could be completed within the next 18 – 24 months. A recent rate case with the NC Utilities Commission took 9 months to process and get approved. We would not anticipate this approval to take any less time.
  - Status update of August 12, 2019 – Despite numerous calls and emails to Mr. Haynes Brigman, town manager for Town of Harrisburg, I was unable to get a response. However, Rob Donham, Engineering and Public Works Director for the Town of Harrisburg, and I have recently connected. An analysis is being scheduled to compare the Town of Harrisburg's water model to our request. This is anticipated to be a formality as Mr. Donham states, "we could probably add an 8' connection with a master meter and accomplish this very easily."
2. **Submit quarterly status reports detailing actions taken to come into compliance with the MCL.**
  - Response of May 15, 2019 - We have submitted an additional radiological sample to the lab, and will continue to monitor this well. We do believe that the

## Water Resources, Inc.

5970 Fairview Rd, Suite 710

Charlotte, NC 28210

previous contracted operator did not purge this well before taking samples which created a false result. We believe subsequent samples, with proper sampling procedures followed, will bring this well back into compliance. For the immediate, this well has been taken off line and will only be used in cases of emergencies. In regards to discussions with the Town of Harrisburg –Actual discussions have not begun, but will prior to the end of May.

- Status update of August 12, 2019 – This well was taken out of service effective 6/30/2019
3. **Provide public notification of the MCL violation** – This was done on May 15, 2019 via USPS.
  4. **Comply with all public water system requirements as specified in NC's Rules Governing Public Water Systems. 15A NCAC 18C** – We will have an SWPP written and on site no later than June 30, 2019. We currently are operating within the requirements noted in 15A NCAC 18C to protect the water source.

Please do not hesitate to contact me at 704-805-1799, or [dabbott@waterresourcesnc.com](mailto:dabbott@waterresourcesnc.com), if you have any questions.

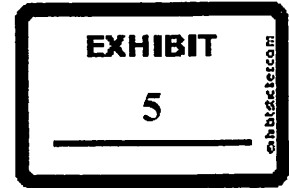
Very truly yours,



Dennis C Abbott  
President

# Water Resources, Inc.

5970 Fairview Rd, Suite 710  
Charlotte, NC 28210



OFFICIAL COPY

Sep 29 2022

September 17, 2019

Mr. Steve Proctor  
Public Water Supply Section  
North Carolina Department of Environment Quality  
Division of Water Quality, Compliance Services Branch  
512 N Salisbury St  
Raleigh, NC 27699-1634

RE: **Notice of Deficiencies – Radionuclides**  
Rocky River Plantation PWSID: NC0113220  
Cabarrus County

Dear Mr. Proctor:

Please see the status below of the above subject. Please let me know if you have any further questions.

**1. Develop a written plan for permanently reducing the amount of reducing the amount of contamination in your water system**

- Status update of September 17, 2019 – This week we submitted information and plans of the Rocky River Plantation water system to the Town of Harrisburg. We understand the steps going forward are as follows:
  - The Town of Harrisburg will forward these plans to their engineering firm to get a price to conduct a system study to decide if the Town of Harrisburg has the capacity to service Rocky River Plantation. We are told that the study is a formality as the Town of Harrisburg has more than adequate capacity to provide water service to Rocky River Plantation. We have been told this will take 2 – 3 weeks.
  - Once the engineering firm provides the Town of Harrisburg a price for the study, we will be notified and asked to submit a check for the study.
  - Once the check is received, the Town of Harrisburg will release the engineering firm to conduct the study. We have been told this will take 6 – 8 weeks.
  - Once confirmation is provided by the engineering firm that the Town of Harrisburg has the capacity to service Rocky River Plantation, an engineering firm will have to be hired to develop the plans for constructing a master meter and tie-in into the water system for the Town of Harrisburg, Estimated time is 3 months.
  - These plans will then be submitted to the state of NC for approval. Estimated time for approval is 3 months.
  - Once plans are approved by NC, proposals will be received for

## Water Resources, Inc.

5970 Fairview Rd, Suite 710

Charlotte, NC 28210

construction. Estimated time will be 4 weeks after approval is received.

- Depending on the availability of the contractor, the time it takes to get permits and other necessary approvals, construction is expected to start in 1 to 3 months after proposals are received.
- Construction and subsequent approval is expected to take 4 weeks.

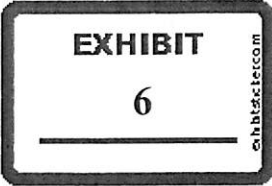
Please do not hesitate to contact me at 704-805-1799, or [dabbott@waterresourcesnc.com](mailto:dabbott@waterresourcesnc.com), if you have any questions.

Very truly yours,



Dennis C Abbott  
President

Cc: Haris Ali



**From:** dabbott waterresourcesnc.com <dabbott@waterresourcesnc.com>  
**Sent:** Tuesday, September 17, 2019 8:49 PM  
**To:** Proctor, Steve  
**Cc:** Ali, Haris  
**Subject:** [External] Rocky River Plantation - Radionuclides Update  
**Attachments:** Response Letter To Violations - Radionuclides - 2019.09.17.docx

**CAUTION:** External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [report.spam@nc.gov](mailto:report.spam@nc.gov)

Steve,

Please find attached a letter providing an update and schedule for the correction of the radionuclides violation at Rocky River Plantation. Based on the schedule included in the letter, we are formally requesting an extension to get this corrected.

Please let me know if you have any questions.

Dennis Abbott  
 Water Resources, Inc.

OFFICIAL COPY

Sep 29 2022

ROY COOPER  
Governor  
MICHAEL S. REGAN  
Secretary  
LINDA CULPEPPER  
Interim Director



NORTH CAROLINA  
Environmental Quality



NC0113220\_20191121\_RAD\_AO\_EXT\_SS1.pdf

November 21, 2019

Water System Number: NC0113220, CABARRUS COUNTY  
Rocky River Plantation S/D  
Water Resources Inc  
5970 Fairview Rd Suite 710  
Attn: Dennis Abbott  
Charlotte, NC 28210-3167

Mr. Abbott,

Based on the request made on September 17, 2019, your water system is being granted a 12 month extension to comply with the Combined Radium MCL at Facility I.D. / Sample Point: SS1 / E03. The new deadline is September 30, 2020.

Note that Water Resources Inc. has already received a Notice of Violation/Administrative Order (NOV/AO) for exceedance of the Combined Radium MCL, and that order had a June 30, 2019 compliance deadline. Until the MCL violation is resolved, continue to submit quarterly written status reports as specified in your NOV/AO dated December 17, 2018. Quarterly status reports should be submitted to Haris Ali, Radionuclides Rule Manager, at 1634 Mail Service Center, Raleigh, NC 27699-1634. A copy of each quarterly status report should also be sent to your regional office contact, Clinton Cook, P.E., Regional Engineer. Clinton Cook can be reached at (704) 235-2140 or by mail at 610 East Center Avenue, Suite 301, Mooresville, North Carolina 28115. The agency reserves the right to take enforcement action for any new or additional violations of the NC Drinking Water Act or North Carolina's Rules Governing Public Water Systems, 15A NCAC 18C.

If you have any questions or need assistance regarding this violation, please contact me, by phone at (919) 707-9091 or by e-mail at [haris.ali@ncdenr.gov](mailto:haris.ali@ncdenr.gov).

BY: \_\_\_\_\_

Haris Ali  
Environmental Engineer  
Compliance Services Branch  
Public Water Supply Section  
Division of Water Resources, NCDEQ

CC: MOORESVILLE REGIONAL OFFICE



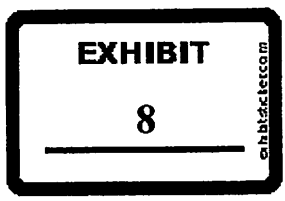
North Carolina Department of Environmental Quality | Division of Water Resources  
Public Water Supply Section | 1634 Mail Service Center | Raleigh, North Carolina 27699-1634  
919 707 9100 | [www.ncwater.org/pws](http://www.ncwater.org/pws)

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Sep 29 2022



**ROY COOPER**  
*Governor*  
**MICHAEL S. REGAN**  
*Secretary*  
**S. DANIEL SMITH**  
*Director*



OFFICIAL COPY  
Sep 29 2022

**NOTICE OF VIOLATION**

October 22, 2020

**CERTIFIED MAIL: 7017 2620 0000 6788 9328**  
**RETURN RECEIPT REQUESTED**

Water Resources, Inc.  
Registered Agent: Dennis C. Abbott  
5970 Fairview Road, Suite 710  
Charlotte, NC 28210-3124

RE: Rocky River Plantation S/D  
PWSID: NC0113220  
Cabarrus County

Dear Mr. Abbott:

As you know, the referenced water system was approved on April 27, 1989 to serve a residential community with over 50 connections using two wells. In early August 2019, you informed staff of the Public Water Supply (PWS) Section in the Mooresville Regional Office that Well 1 would be taken out of service because the well had violated the Combined Radium Maximum Contaminant Level (MCL) in three consecutive quarters. At that time, PWS Section staff reminded you that North Carolina Administrative Code, Title 15A, Subchapter 18C, Rule .0402(g)(5) [15A NCAC 18C .0402(g)(5)] requires that a residential community water system, using well water as its source of supply and designed to serve 50 or more connections, must provide at least two wells. If a second well cannot be provided, another approved water supply source may be accepted. Your plan of action, which was developed in response to the aforementioned Combined Radium MCL violation and received on August 12, 2019, identified your action for resolving the violation as installing a new connection with the Town of Harrisburg because Well 1 had been deactivated.

Since that time, you have reported that you've been working to complete the connection with the Town of Harrisburg. However, on September 21, 2020, you indicated that progress had stopped when an easement agreement could not be obtained. Furthermore, you have indicated that without the easement agreement, construction cannot progress, which will result in the continued violation of the North Carolina Administrative Code.

This letter serves as written notice that you are operating the water system in violation of the requirements of North Carolina Administrative Code, Title 15A, Subchapter 18C, Rule .0402(g)(5). Although the connection with the Town of Harrisburg is your preferred option for resolving the violation, if the connection with Harrisburg cannot be completed, you must take



other action to resolve the violation. Alternatives include installing a treatment system for the inactivated well (Well 1) and acquiring land for a new well lot so that a new well may be drilled and connected to the existing water system. In either case a qualified professional engineer must design any modification to the existing water system and the modification must be approved by the Department before it can be constructed.

If the violation is not corrected by January 20, 2021 we will pursue issuance of an administrative penalty. In accordance with General Statute 130A-22(b) and the North Carolina Drinking Water Act (G.S. 130A-311), failure to comply with the *Rules Governing Public Water Systems* may result in the issuance of an Administrative Penalty of up to \$25,000 for each day the violation continues.

If you have any questions or need any additional information, please feel free to contact me at (704) 235-2140.

Sincerely,



Clinton O. Cook, PE  
Regional Engineer  
Division of Water Resources  
Public Water Supply Section

cc: Rebecca Sadosky, PhD, Operations Branch Head, Public Water Supply Section  
Robert W. Midgette, PE, Chief, Public Water Supply Section

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
 Water Resources Inc  
 Dennis C. Abbott  
 5970 - 710 FA. RD. W  
 Charlotte, NC 28210



9590 9402 1901 6104 1335 57

2. Article Number (Transfer from service label)  
 70172120000067889328

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
 X *CD HA*  Agent  Address

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type
- Adult Signature
  - Adult Signature Restricted Delivery
  - Certified Mail®
  - Certified Mail Restricted Delivery
  - Collect on Delivery
  - Collect on Delivery Restricted Delivery
  - Insured Mail
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OFFICIAL COPY Sep 29 2022

ROY COOPER  
Governor  
MICHAEL S. REGAN  
Secretary  
S. DANIEL SMITH  
Director



February 3, 2021

**CERTIFIED MAIL**

TO: Water Resources, Inc.  
Registered Agent: Dennis C. Abbott  
5970 Fairview Road, Suite 710  
Charlotte, NC 28210-3124

RE: **Administrative Penalty**  
Rocky River Plantation S/D  
PWSID #0113220  
Cabarrus County

This is to inform you that pursuant to G.S. 130A-22(b) an administrative penalty has been assessed against Water Resources, Inc. for a violation of the North Carolina Drinking Water Act (G.S. 130A-311 et. seq.) and Rules Governing Public Water Systems (15A NCAC 18C) occurring at the water supply system serving Rocky River Plantation S/D. Deficiencies associated with this penalty were brought to your attention on October 22, 2020. The individual violation and the resulting penalty amount are described below.

**Violations:** As documented in the October 22, 2020 Notice of Violation letter, a representative of the Mooresville Regional Office cited the Rocky River Plantation S/D water system with violation of the requirements of 15A NCAC 18C .0402(g)(5), which states:

*15A NCAC 18C .0402(g)(5) A residential community water system using well water as its source of supply and designed to serve 50 or more connections shall provide at least two wells...In lieu of a second well, another approved water supply source may be accepted.*

The violation exists because the supplier of water failed to maintain or provide a second source of water for a community water system serving 50 or more connections. The violation remains unresolved as verified during a January 21, 2021 site visit conducted by regional office staff.

**Penalty:** The penalty amount for the violation cited above is **\$4,500**. In addition, until Water Resources, Inc. demonstrates that the Rocky River Plantation S/D water system has returned to compliance with 15A NCAC 18C .0402(g)(5), a continuing penalty of \$50 per day is hereby assessed. Pursuant to 15A NCAC 18C .1906, the factors considered in this assessment include: duration, effectiveness of responsive measures taken by the violator, cause, potential effect on the public health, population exposed, and the previous record of compliance by the violator.

**To Resolve This Penalty, You Must:**

- 1. Return to Compliance.** You must return to compliance by resolving the violation cited above such that the water system serving Rocky River Plantation S/D is provided with a second well water source or is provided with another approved water source, as per 15A NCAC 18C .0402(g)(5).
- 2. Pay the total penalty amount indicated above within 60 days of service of this letter.** To ensure proper credit for your payment, return the enclosed payment coupon with a check or money order, made payable to the NC Department of Environmental Quality, to the person and address denoted on the coupon. Be sure to place the payment code on your check or money order. If an administrative penalty is not paid by the date specified when no hearing is requested, the Secretary of the North Carolina Department of Environmental Quality shall request the Attorney General to commence a civil action to recover the amount of the assessment.



North Carolina Department of Environmental Quality | Division of Water Resources  
512 North Salisbury Street | 1634 Mall Service Center | Raleigh, North Carolina 27699-1634  
919.707.9100

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Sep 29 2022

**Right to Appeal:** You may appeal this assessment of an administrative penalty as follows: A petition for an administrative hearing must be submitted within 30 days in writing in accordance with G.S. 150B-23(a) to the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, North Carolina 27699-6714 with a copy to William F. Lane, General Counsel, North Carolina Department of Environmental Quality, 1601 Mail Service Center, Raleigh, North Carolina 27699-1601. A filing fee of \$20.00 is collected by the Office of Administrative Hearings. A petition form with filing instructions is enclosed.

**Compliance and Future Enforcement:** PAYMENT OF THE PENALTY AMOUNT WILL NOT PRECLUDE FURTHER ENFORCEMENT ACTION FOR ANY FUTURE VIOLATIONS. The agency reserves the right to take enforcement action for any new, additional, or continual violations. To avoid future assessment of administrative penalties, you must comply with the Rules Governing Public Water Systems, 15A NCAC 18C.

**Contact Person:** If you have questions about the violation(s), please contact Clinton Cook, Mooresville Regional Engineer at 704-663-1699. If you have a question about the penalty, please contact Gina Braswell, Enforcement Specialist at (919) 707-9103.

Sincerely,



Robert W. Midgette, P.E., Section Chief  
Public Water Supply Section  
Division of Water Resources, NCDEQ

cc: Clinton O. Cook, P.E., Regional Engineer  
Rebecca Sadosky, PhD, Operations Branch Head, Public Water Supply Section  
Jay Frick, Technical Services Branch Head  
Gina Braswell, Enforcement Specialist

*Detach payment coupon below and return with your payment. Write payment code on your check or money order.*

---

**PWSID #** 0113220  
**System Name:** Rocky River Plantation S/D  
Water Resources, Inc.  
**Registered Agent:** Dennis C. Abbott  
5970 Fairview Road, Suite 710  
Charlotte, NC 28210-3124

**AMOUNT DUE: \$4,500**  
Within **60 days** of service  
of this letter

**PAYMENT CODE:** NC0113220\_020321\_RO

**Make check payable to:** NC Department of Environmental Quality

**Mail to:** Gina Braswell, Enforcement Specialist  
Public Water Supply Section  
1634 Mail Service Center  
Raleigh, NC 27699-1634

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PWSID #0113220 - 02/03/2021  
 WATER RESOURCES INC.  
 ATTN: DENNIS C. ABBOTT  
 5970 FIARVIEW RD STE 710  
 CHARLOTTE, NC 28210-3124

PS Form 3800, August 2006      See Reverse for Instructions

7008 1140 0002 6737 4390

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY																
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p><b>A. Signature</b></p> <p><b>X</b> <span style="float: right;"><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</span></p> <p><b>B. Received by (Printed Name)</b>      <b>C. Date of Delivery</b></p>																
<p>1. Article Addressed to:</p> <p style="text-align: center;">PWSID #0113220 - 02/03/2021          WATER RESOURCES INC.          ATTN: DENNIS C. ABBOTT          5970 FIARVIEW RD STE 710          CHARLOTTE, NC 28210-3124</p>	<p><b>D. Is delivery address different from item 1? <input type="checkbox"/> Yes</b>          If YES, enter delivery address below: <input type="checkbox"/> No</p>																
<div style="text-align: center;">             9590 9402 3950 8060 9810 29         </div> <p>2. Article Number (Transfer from service label)          7008 1140 0002 6737 4390</p>	<p><b>3. Service Type</b></p> <table style="width: 100%; border: none;"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail, Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Insured Mail</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</td> <td></td> </tr> </table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail, Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> Insured Mail		<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	
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<p><small>PS Form 3811, July 2015 PSN 7530-02-000-8053</small></p>	<p>Domestic Return Receipt</p>																

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## **Delivered**

February 6, 2021 at 2:02 pm  
Delivered, Front Desk/Reception/Mail Room  
CHARLOTTE, NC 28210

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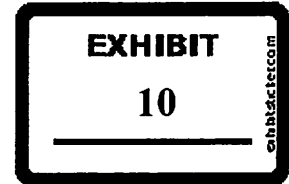
- Text & Email Updates** 
- Tracking History** 
- Product Information** 

**See Less** 

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Sep 29 2022

ROY COOPER  
Governor  
DIONNE DELLI-GATTI  
Secretary  
S. DANIEL SMITH  
Director



April 9, 2021

WATER RESOURCES INC.  
ATTN: DENNIS ABBOTT  
5970 FAIRVIEW RD STE 710  
CHARLOTTE NC 28210-3124

ROCKY RIVER PLANATION S/D  
NC0113220  
CABARRUS COUNTY

Dear Sir/Madam:

The North Carolina Public Water Supply (PWS) Section issued an administrative penalty(s) to you for violations of the North Carolina Drinking Water Act (G.S. §130A-311, *et seq.*) and *Rules Governing Public Water Systems* (15A NCAC 18C) occurring at the water system serving ROCKY RIVER PLANTATION S/D. See attached addendum. You are required to maintain compliance with all applicable Rules in 15A NCAC 18C, and you must pay the assessment to resolve the administrative penalty(s) resulting from the violations.

As of the date of this letter, payment has not been received. The PWS Section is preparing to refer this matter to the North Carolina Attorney General's Office. Pursuant to 15A NCAC 18C .1912, if payment remains outstanding, DEQ, along with the Attorney General's Office will seek legal action against you. This process may result in additional fees and the assessment of interest in addition to the original penalty amount. The PWS Section requests that you submit payment in full within fifteen days from the date of this letter. Please also be advised that you may have additional unrelated and unpaid administrative penalties not itemized in the attached addendum.

If you have not already done so, you must take immediate and appropriate action to return to compliance, as required and specified in the *Rules Governing Public Water Systems* (15A NCAC 18C). In addition to penalty collection efforts, the PWS Section reserves the right to initiate additional legal action through the Attorney General's Office to resolve any ongoing non-compliance issues occurring at this water system.

If you have any questions or wish to discuss this matter further, I may be reached at 919-707-9103.

Respectfully,

A handwritten signature in cursive script that reads 'Gina Braswell'.

Gina Braswell  
Enforcement Specialist

Cc: MRO



North Carolina Department of Environmental Quality | Division of Water Resources  
512 North Salisbury Street | 1634 Mail Service Center | Raleigh, North Carolina 27699-1634  
919.707.9100

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Sep 29 2022



Water Resources Inc. – Unpaid Penalty			
Penalty Date	Served Date	Due Date	Amount
February 3, 2021	February 6, 2021	April 7, 2021	\$4,500

*Detach payment coupon below and return with your payment*

WATER SYSTEM NUMBER: NC0113220  
 SYSTEM NAME: Rocky River Plantation S/D

AMOUNT DUE: \$4,500  
 DUE DATE: PAST DUE

Make check payable to: NC Department of Environmental Quality  
 Mail to: Public Water Supply Section  
 1634 Mail Service Center  
 Raleigh, NC 27699-1634

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JUN 23 2021

N.C. ATTORNEY GENERAL  
Environmental Division



Exhibit F

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
21 CVS 2109

FILED  
SEP 29 2022  
CLERK OF SUPERIOR COURT

OFFICIAL COPY

Sep 29 2022

STATE OF NORTH CAROLINA, *ex rel.*,  
NORTH CAROLINA DEPARTMENT OF  
ENVIRONMENTAL QUALITY,

Plaintiff,

v.

WATER RESOURCES, INC.,

Defendant.

MA

CONSENT JUDGMENT

Plaintiff, the State of North Carolina, by and through the North Carolina Department of Environmental Quality, ("Plaintiff" or "DEQ"), and Defendant, Water Resources, Inc., hereby agree to the entry of this Consent Judgment in order to resolve the matter in controversy between the parties.

The Court makes, and the Plaintiff and Defendant (collectively "the Parties") hereby stipulate to, the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Plaintiff is the sovereign State of North Carolina. This action was brought on the relation of the North Carolina Department of Environmental Quality ("DEQ"), the State agency established pursuant to N.C. Gen. Stat. § 143B-279.1 *et seq.*, and vested with the statutory authority to enforce the North Carolina Drinking Water Act contained in Article 10, Chapter 130A of the General Statutes and the rules promulgated thereunder. N.C. Gen. Stat. § 130A-326. The Division of Water Resources ("DWR") is a division within DEQ, and the Public Water Supply

(“PWS”) Section is a section within DWR. All actions taken by the PWS Section are necessarily actions of the Plaintiff. It is the mission of the PWS Section to promote public health by ensuring that safe, potable water is available in adequate quantities to the residents and visitors of North Carolina served by public water systems by assuring that such systems are properly located, constructed, operated and maintained.

2. Defendant Water Resources, Inc. is a North Carolina corporation with a principal office in Charlotte, North Carolina, and is the supplier of water for the public water supply system, a residential well water system designed to serve 50 or more connections and identified as PWSID # NC0113220, serving the residential community known as the Rocky River Plantation Subdivision.

3. The Rocky River Plantation Subdivision is located in Harrisburg, Cabarrus County, North Carolina. There are over 50 public water connections within the subdivision, serving approximately 264 residents annually.

4. On December 17, 2018, the PWS Section sent a Notice of Violation (“2018 NOV”) to Defendant for violation of the Combined Radium Standard in one of two wells, “Well 1,” during the period of January 1, 2018 through December 31, 2018. Among other things, the NOV ordered Defendant to return to compliance by June 30, 2019, to develop a plan for reducing the amount of contamination in the system, to submit quarterly status reports, and to advise residents of the violation.

5. On April 15, 2019, a Notice of Violation was sent to Defendant for continued violation of the Combined Radium Standard in Well 1 during the period of April 1, 2018 through March 31, 2019.

6. On June 13, 2019, another NOV was sent to Defendant for continued violation of

the Combined Radium Standard in Well 1 during the period of July 1, 2018 through June 30, 2019.

7. As Defendant began to explore options for returning to compliance and Well 1 remained in non-compliance, PWS Section staff recommended as a short term solution that Well 1 be taken out of service to protect the community. Well 1 was taken out of service on June 30, 2019. Defendant was aware at that time that pursuant to North Carolina's regulations governing water supply wells, the system must operate two wells, and that inactivating Well 1 would represent only a short term option. The PWS Section formally approved Defendant's request to inactivate Well 1 in September of 2019, and advised Defendant at that time that an NOV would be forthcoming for violation of 15A NCAC 18C .0402(g)(5) – the requirement that the system have at least two wells or another approved water supply source.

8. The consequences of having only one well for a system serving more than 50 connections is significantly elevated public health risk. Any disruptions, outages or failures of the sole remaining well elevate public health risk due to inadequate pressure in the distribution system which provides opportunity for contaminants to enter the system. Additionally, disruptions in water service further elevate public health risk as washing hands, flushing toilets, bathing, and food preparation are compromised.

9. On August 12, 2019, the PWS Section received a status report from Defendant wherein Defendant stated that the violation would be resolved by installing a new connection with the Town of Harrisburg. A copy of that status report is attached hereto as **Exhibit 1**, and incorporated herein by reference.

10. On September 17, 2019, the PWS Section received another status report from Defendant outlining necessary steps to implement Defendant's preferred alternative of connecting to the Town of Harrisburg. In transmitting the September 17, 2019 status report, Defendant asked

that he be given additional time to come into compliance.

11. On November 21, 2019, based on the September 17, 2019 request for additional time, the PWS Section extended the date set forth in the 2018 NOV for returning the system to compliance from June 30, 2019 to September 30, 2020.

12. On September 21, 2020, less than ten days before the September 30, 2020 deadline for coming into compliance, Defendant claimed that the new connection could not be constructed due to Defendant's inability to obtain an easement agreement from one of the property owners.

13. On October 22, 2020, the PWS Section issued a Notice of Violation ("NOV") to Defendant, explaining that Defendant is operating the water system in continued violation of North Carolina Regulations. The PWS Section further explained that while Defendant's preferred resolution was connection to the Town, if connection to the Town could not be completed Defendant must take other action to resolve the violation. Such alternatives could include installing a treatment system for Well 1 and acquiring land to drill a new well to serve the water system. The NOV further advised the Defendant that if the violation was not corrected by January 20, 2021, the PWS Section would pursue issuance of an administrative penalty.

14. On February 3, 2021, the PWS Section assessed an Administrative Penalty against Defendant in the amount of \$4,500 plus a continuing penalty of \$50 per day until Defendant demonstrates that the water system has returned to compliance. In order to resolve the penalty, Defendant was advised that he must return the water system to compliance and pay the total penalty amount within 60 days of service of the penalty. Defendant was also advised of his right to appeal the assessment of the penalty.

15. Defendant received the penalty assessment on February 6, 2021. Defendant did not appeal the assessment. As of April 9, 2021, payment had not been received, and PWS Section

staff sent a letter on that date to Defendant advising that the PWS Section was preparing to refer the matter to the North Carolina Attorney General's Office to proceed with a collections action. The PWS Section further advised Defendant that Defendant must take immediate and appropriate action to return to compliance, and that the PWS Section reserved the right to initiate additional legal action through the Attorney General's Office to resolve the ongoing non-compliance issues at the water system.

16. As of the date of entry of this Consent Judgment, Defendant has failed to implement the plan set forth in the August 12 and September 17, 2019 status reports, the public water system at the Rocky River Plantation Subdivision continues to operate using only one well and no other approved water supply source, and Defendant remains in violation of North Carolina's Drinking Water Regulation set forth at 15A NCAC 18C .0402(g)(5).

#### CONCLUSIONS OF LAW

1. This matter is properly before this Court, which has jurisdiction over the Parties and subject matter of this action pursuant to N.C. Gen. Stat. § 130A-18 and other provisions of law.

2. Venue is proper pursuant to N.C. Gen. Stat. §§ 1-79 and 130A-18.

3. The North Carolina Drinking Water Act, N.C. Gen. Stat. § 130A-311 *et. seq.* is designed to "regulate water systems within the State which supply drinking water that may affect the public health." N.C. Gen. Stat. § 130A-312. Pursuant to N.C. Gen. Stat. § 130A-315(a), the Commission for Public Health has adopted drinking water rules to regulate water quality in 15A NCAC Subchapter 18C. DEQ is responsible for enforcing the Drinking Water Act and related regulations. N.C. Gen. Stat. §§ 130A-315(a), -326.

4. Pursuant to the Drinking Water Act, a public water system is defined as a



conveyance system that provides water to the public for human consumption and “serves 15 or more service connections or which regularly serves 25 or more individuals.” N.C. Gen. Stat. § 130A-313(10). Public water systems may be either community or noncommunity water systems. A community water system is one that “serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.” *Id.* Any person who “owns, operates, or controls a public water system” is a “supplier of water.” N.C. Gen. Stat. § 130A-313(11).

5. Defendant owns and operates the public water system serving Rocky River Plantation subdivision, and is a “supplier of water” pursuant to N.C. Gen. Stat. § 130A-313(11). As there are over 50 public water connections within the subdivision the system is a “public water system” and a “community water system” as defined by N.C. Gen. Stat. § 130A-313(10). As the system is a well water system that serves greater than 50 connections, North Carolina regulations mandate that the system have at least two wells. In lieu of a second well, another approved water supply source may be accepted. 15A NCAC 18C .0402(g)(5).

6. When a supplier of water violates the drinking water rules or the Drinking Water Act, DEQ may institute an action for injunctive relief in the superior court of the county where the violation occurred or where the defendant resides irrespective of all other remedies at law. N.C. Gen. Stat. § 130A-18.

7. When the State brings an action to vindicate the public interest pursuant to a statute which provides for injunctive relief to abate violations of law, the usual test for issuance of injunctions need not be met. *State ex rel. Edmisten v. Challenge, Inc.*, 54 N.C. App. 513, 521-22, 284 S.E.2d 333, 338-39 (1981) (explaining that irreparable harm need not be established by the State as long as the statutory conditions for issuance of an injunction exist); *State ex rel. Morgan*

*v. Dare To Be Great, Inc.*, 15 N.C. App. 275, 189 S.E.2d 802 (1972) (negating the general rule that there will be no equitable relief if there is an adequate remedy at law when the statutory scheme provided the State with injunctive relief under the circumstances presented). For example, the State is not required to show actual injury, such as irreparable harm, in order to obtain injunctive relief, including a preliminary injunction. Rather, it must show only that the violative acts or practices adversely affect the public interest. *See Challenge, Inc.*, 54 N.C. App. at 521-22, 284 S.E.2d at 338-39. An adverse effect on the public interest exists as a matter of law where the statutory conditions for issuance of injunctive relief are present, i.e., where a violation of the applicable statute or regulations exists or is threatened. *Id.* at 522, 284 S.E.2d at 339.

8. As of the date of entry of this Consent Judgment, Defendant has failed to bring the water system into compliance and remains in violation of North Carolina's Drinking Water Regulations. Therefore, an adverse effect on the public interest exists as a matter of law. *See Challenge, Inc., supra*, 54 N.C. App. at 522, 284 S.E.2d at 339. Defendant's continued non-compliance exposes residents at the Rocky River Plantation subdivision to significantly elevated public health risks.

9. The State is entitled to permanent injunctive relief against Defendant to abate the violation of the Drinking Water Act and related regulations set forth in this Complaint pursuant to N.C. Gen. Stat. § 130A-18.

10. Based upon the Court's review of the pleadings and materials submitted, this Court has concluded that the relief reflected in the Consent Judgment represents a lawful, fair, and reasonable resolution of this matter, consistent with the purposes of the North Carolina Drinking Water Act, N.C. Gen. Stat. § 130A-311 *et. seq.*, and this Court further concludes that it is fully authorized and justified in entering this Consent Judgment.

11. The Parties expressly waive any argument that the recitation of the above Findings of Fact and Conclusions of Law is insufficient to support the injunctive relief ordered below.

Based upon the foregoing Findings of Fact and Conclusions of Law, **IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** as follows:

Defendant is ordered to do the following:

1. Within 30 days of the entry of this Consent Judgment, submit to the PWS Section for review and approval (which may include the addition of conditions by the PWS Section) a plan to interconnect the Rocky River Plantation system to the Town of Harrisburg water system, as presented in Defendant's August 12, 2019 plan, attached hereto as Ex. 1. The plan must include a proposed schedule setting forth the number of days for the completion of the following activities, in accordance with the Rules Governing Public Water Systems, 15A NCAC 18C .0301 - .0309:
  - a. Submitting complete engineering plans, specifications and reports for the interconnection to the Town of Harrisburg,
  - b. Completing construction and submitting an Engineer's Certification and Applicant's Certification for the completed interconnection to the Town of Harrisburg, and
  - c. Placing the interconnection into active service.
2. Alternatively, within 30 days of the entry of this Consent Judgment, submit to the PWS Section for review and approval (which may include the addition of conditions by the PWS Section) a plan for an alternative means of returning the system to compliance, such as installing a treatment system for Well 1 or installing a new well to serve the

community. The plan must set forth the activities necessary for implementation, and a proposed schedule setting forth the number of days for completion of each activity.

3. Whether Defendant chooses to interconnect with the Town of Harrisburg or chooses an alternative means of returning the system to compliance, Defendant shall utilize a qualified professional engineer licensed to practice in the State of North Carolina to design any option for returning the system to compliance that involves modification of the existing water system; and shall obtain approval from the PWS Section prior to construction of any option for returning the system to compliance that involves modification of the existing water system.
4. If the PWS Section requires revisions in order for any of the plans submitted to be approved, Defendant shall resubmit the plan incorporating said revisions within 15 days of written notification (via e-mail at [dabbott@waterresourcesnc.com](mailto:dabbott@waterresourcesnc.com)) by the PWS Section that such revisions are required.
5. Once a plan for returning to compliance is approved, including any conditions added by the PWS Section, Defendant shall execute the approved plan in accordance with the conditions and dates included therein.
6. Unless otherwise indicated, Defendant shall submit any plan for returning to compliance, or any revision thereto, to:

Clinton O. Cook, PE  
Regional Engineer  
Division of water Resources – Public Water Supply Section  
North Carolina Department of Environmental Quality  
[clinton.cook@ncdenr.gov](mailto:clinton.cook@ncdenr.gov)

with a copy to:

Jay Frick  
Technical Services Branch Head

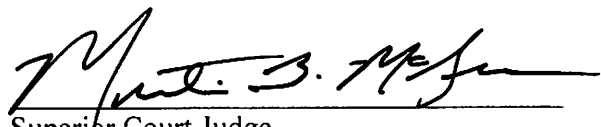
Division of water Resources – Public Water Supply Section  
North Carolina Department of Environmental Quality  
jay.frick@ncdenr.gov

7. Once the work set forth in the approved plan, including any conditions added by the PWS Section, is completed, Defendant shall submit a final report documenting the results of the activities set forth in the plan.
8. The exhibit attached to this Consent Judgment and those attached to the Complaint are authentic public records, and Defendant does not object to the entry of these exhibits into evidence.
9. DEQ retains its authority, in accordance with applicable law, to initiate any and all enforcement actions that would otherwise be available to it in the absence of this Consent Judgment.
10. Nothing in this Consent Judgment shall be interpreted or applied to allow Defendant to violate any applicable permit, statute, regulation or common law in the course of complying with its terms. This Consent Judgment does not relieve Defendant from any civil or criminal penalties, or damages caused to any third-party.
11. This Consent Judgment shall take effect immediately and shall remain in effect until the PWS Section deems the system to have been returned to compliance. The Parties shall comply with all terms of this Consent Judgment.
12. This Consent Judgment shall be binding upon Defendant's successors and assigns. Defendant shall not transfer any of the assets that are the subject of the Complaint, including the public water system for the Rocky River Plantation Subdivision, unless and until Defendant moves to join the transferee as a defendant in this case such that this Consent Judgment shall be binding upon the transferee and the Court issues an

order granting such motion.

- 13. The Court shall retain continuing jurisdiction in this case to enforce the terms and conditions of this Consent Judgment, to modify this Consent Judgment, and to resolve disputes arising under this Consent Judgment, until all parties have complied with all provisions of this Consent Judgment.
- 14. The contempt provisions of Article 2, Chapter 5A of North Carolina General Statutes shall be available to enforce this Consent Judgment.
- 15. This Consent Judgment may be signed out-of-court, out-of-term, out-of-county, and may be signed in multiple counterpart originals, all of which, taken together, shall be considered one and the same document. Scanned signatures will be sufficient to render this Consent Judgment effective. Original signatures will be substituted at a later date.
- 16. Each undersigned representative of a party to this Consent Judgment certifies that the representative is authorized to enter into the terms and conditions of this Consent Judgment, and to execute and legally bind such party to this Consent Judgment.

This the 15<sup>th</sup> day of July, 2021.

  
 Superior Court Judge  
 Cabarrus County

[ADDITIONAL SIGNATURES ON FOLLOWING PAGES]

**A TRUE COPY**  
 CLERK OF SUPERIOR COURT  
 CABARRUS COUNTY  
 BY M. Smith  
 Assistant, Deputy, Clerk Superior Court

CONSENTED TO BY:

NORTH CAROLINA DEPARTMENT  
OF ENVIRONMENTAL QUALITY

By: *Robert W Midgette*  
ROBERT W. MIDGETTE

Chief of the Public Water Supply Section, Division of Water Resources

CONSENTED TO BY:

WATER RESOURCES, INC.

By:



DENNIS C. ABBOTT  
President



RECEIVED

JUL 21 2021

N.C. Dept. of Justice  
Environmental Division



JOSH STEIN  
ATTORNEY GENERAL



REPLY TO:  
BRENDA MENARD  
ENVIRONMENTAL DIVISION  
TEL: (919) 716-6966  
FAX: (919) 716-6767  
BMENARD@NCDOJ.GOV

W-1034, Subs 8 & 10

September 12, 2022

**Exhibit G**

The Honorable William W. Baggs  
Clerk of Superior Court  
Cabarrus County Courthouse  
Att: Civil Division  
77 Union Street South  
Concord, NC 28025

Re: *State of North Carolina ex. rel., North Carolina Department of Environment  
Quality v. Water Resources, Inc.*, File No.: 21 CVS 2109, Cabarrus County

Dear Mr. Baggs:

Enclosed please find an original and one copy of a Motion for Entry of Order to Show Cause for Civil Contempt and a Proposed Order for filing in the case captioned above.

Please file all documents and return the file-stamped copies to my attention in the enclosed, self-addressed envelope.

If questions arise, please contact me at 919-716-6966, or the letterhead address. Thank you for your assistance in this regard.

Sincerely,

/s/ Brenda Menard  
Brenda Menard  
Special Deputy Attorney General

Enclosures  
cc via email only: Counsel for Defendant Water Resources, Inc.

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
2021 CVS 2109

STATE OF NORTH CAROLINA, ex rel.,  
NORTH CAROLINA DEPARTMENT OF  
ENVIRONMENTAL QUALITY,

Plaintiff,

v.

WATER RESOURCES, INC.,

Defendant.

**MOTION FOR ENTRY OF ORDER TO**  
**SHOW CAUSE FOR CIVIL**  
**CONTEMPT**

NOW COMES PLAINTIFF, through undersigned counsel, and moves pursuant to N.C. Gen. Stat. 5A-23(a) for an order directing Defendant, Water Resources, Inc. (“Defendant”), to appear and show cause why Defendant should not be held in civil contempt for violations of the Consent Judgment entered in this action on July 16, 2021. In support of its motion, Plaintiff shows the Court the following:

1. On June 18, 2021, the State, on the relation of the North Carolina Department of Environmental Quality (“DEQ”), filed this action for injunctive relief to abate Defendant’s violations of the North Carolina Drinking Water Act contained in Article 10, Chapter 130A of the North Carolina General Statute (“Drinking Water Act”), and the rules promulgated thereunder at the Rocky River Plantation Subdivision.

2. On or about July 16, 2021, this Court entered a Consent Judgment. Pursuant to the Consent Judgment, Defendant was to submit a Compliance Plan (“Plan”) to DEQ’s Public Water Supply Section to bring the Rocky River Plantation public water supply system back into

compliance with the Drinking Water Act. *See* Consent Judgment at 8–9. The most recent version of the Plan was submitted by Defendant on July 1, 2022. *See* Attached Aff. of Charles D. Frick, Jr., ¶ 15, Exhibit 5. Pursuant to the Consent Judgment, Defendant is required to perform the following actions set forth in the Plan:

- a. Complete construction and submit an Engineer’s Certification and Applicant’s Certification for the completed interconnection to the Town of Harrisburg by September 9, 2022, and
- b. Place the interconnection into active service by May 2, 2022.

3. On September 9, 2022, an inspection of the Rocky River Plantation public water supply system was performed by staff of the Public Water Supply Section. *See* Aff. of Charles D. Frick, Jr., ¶ 16. Upon inspection, the Public Water Supply Section staff member observed the following:

- a. There were no signs that construction of the interconnection to the Town of Harrisburg’s water system had been constructed.
- b. Moreover, there were no signs of any activity on site related to construction of the interconnection, nor were there any signs that construction of the interconnection had even been initiated.

*See* Aff. of Charles D. Frick, Jr., ¶ 16, Exhibit 6.

4. Pursuant to N.C. Gen. Stat. § 5A-23(a), proceedings for civil contempt may be initiated, *inter alia*, “by the order of a judicial official directing the alleged contemnor to appear at a specified reasonable time and show cause why he should not be held in civil contempt.” N.C. Gen. Stat. § 5A-23(a). Plaintiff brings this Motion to Show Cause before the Court seeking such an order.

5. Such an order “may be issued on the motion and sworn statement or affidavit of one with an interest in enforcing the order . . . and a finding by the judicial official of probable cause to believe there is civil contempt.” *Id.* “Probable cause refers to those facts and circumstances within [the judicial official’s] knowledge and of which he has reasonably trustworthy information which are sufficient to warrant a prudent [person] in believing that’ the alleged contemnor is in civil contempt.” *Young v. Mastrom, Inc.*, 149 N.C. App. 483, 484–85, 560 S.E. 2d 596, 597 (2002) (quoting *State v. Williams*, 314 N.C. 337, 343, 333 S.E.2d 708, 713 (1985)).

6. Article 2, Chapter 5A of the North Carolina General Statutes provides that noncompliance with an order of the court is continuing civil contempt as long as the following conditions are met:

- (1) The order remains in force;
- (2) The purpose of the order may still be served by compliance with the order;
- (2a) The noncompliance by the person to whom the order is directed is willful; and
- (3) The person to whom the order is directed is able to comply with the order or is able to take reasonable measures that would enable the person to comply with the order.

N.C. Gen. Stat. § 5A-21.

7. As relevant to the first condition, the Consent Judgment remains in force. The Consent Judgment dictates that its conditions shall take effect immediately and shall remain in effect until the Public Water Supply Section deems the system to have been returned to compliance. Consent Judgment at 10. Furthermore, the Consent Judgment provides that this Court shall retain continuing jurisdiction over this case in order to enforce Defendant’s compliance with the terms and conditions of the Consent Judgment, and that the contempt provisions of Article 2, Chapter 5A of the North Carolina General Statutes shall be available to enforce the Consent Judgment. Consent Judgment at 11; *see also Nohejl v. First Homes of Craven County, Inc.*, 120

N.C. App. 188, 190–91, 461 S.E.2d 10, 12 (1995) (explaining that where the consent judgment includes findings of fact and conclusions of law and the court has entered the consent judgment as an order, it is enforceable by civil contempt).

8. The second condition, that the “purpose of the order may still be served by compliance with the order,” is met here as well. The purpose of the order may still be served by compliance therewith, since the subject public water supply system remains out of compliance with the Drinking Water Act. In particular, the public water supply system at the Rocky River Plantation Subdivision remains out of compliance with 15A NCAC 18C .0402(g)(5) because it does not provide at least two wells or, in the alternative, utilize another approved water supply source.

9. With regard to condition (2a), the facts and circumstances presented in this matter are sufficient to warrant a prudent person in believing that Defendant’s noncompliance is willful. Willfulness “imports knowledge and stubborn resistance.” Meehan v. Lawrance, 166 N.C. App. 369, 378, 602 S.E.2d 21, 27 (2004) (quoting Cox v. Cox, 10 N.C. App. 476, 477, 179 S.E.2d 194, 195 (1971)). The Consent Judgment in this case was entered on July 16, 2021. Defendant has had well over a year to bring the site into compliance. The first approved version of the plan submitted by Defendant on October 18, 2021 set the deadline for construction of the interconnection in April of 2021. As of the date of this motion, it is approximately five months later and Defendant has failed to even initiate construction for the interconnection.

10. Finally, the facts and circumstances presented in this matter are sufficient to warrant a prudent person in believing that Defendant has the ability to comply with the order or take reasonable measures to enable Defendant to comply with the order. Defendant is the supplier of water for the Rocky River Plantation Subdivision. Consent Judgment at 2. Fees paid by customers

provide at least one source of income for work such as the interconnection to be completed.

11. Should the Court agree with Plaintiff that there is probable cause that Defendant is in civil contempt, the Court may enter an order requiring Defendant to appear and show cause why Defendant should not be held in civil contempt. Should the Court choose to do so, such an order may be issued on the verified Motion to Show Cause without the necessity of a hearing. *See* N.C. Gen. Stat. § 5A-23(a) (providing that an order “may be issued on the motion and sworn statement or affidavit of one with an interest in enforcing the order”). A proposed order for the Court’s consideration is submitted contemporaneously with this Motion, In the proposed order, Plaintiff respectfully requests that Defendant should be required to produce evidence of all actions taken by Defendant to secure an easement to enable compliance with the Consent Judgment, the results of such actions, and evidence that such actions are reasonable in light of Defendant’s obligations to comply with the Consent Judgment.

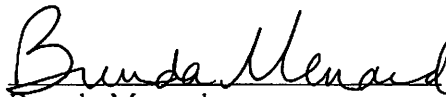
WHEREFORE, the Plaintiff hereby respectfully moves this Court pursuant to N.C. Gen. Stat. § 5A-23 to enter an order finding that there is probable cause to believe that Defendant is in contempt of court and ordering Defendant to appear and show cause, if any there may be, why it should not be held in civil contempt for violation of the Court’s July 16, 2021 Consent Judgment; and for such other relief as the Court deems just and proper.

A proposed order is submitted contemporaneously herewith.



Respectfully submitted this the 12<sup>th</sup> day of September, 2022.

JOSHUA H. STEIN  
Attorney General

By:   
Brenda Menard  
Special Deputy Attorney General  
N.C. Bar No: 35445  
N.C. Department of Justice  
Post Office Box 629  
Raleigh, NC 27602  
Telephone: (919) 716-6600  
Facsimile: (919) 716-6767  
Email: bmenard@ncdoj.gov


ATTORNEY FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing MOTION FOR ENTRY OF ORDER TO SHOW CAUSE FOR CIVIL CONTEMPT and Proposed Order has been served on counsel for Defendant, Water Resources, Inc., via electronic mail as follows:

Patrick Buffkin  
pbuffkin@gmail.com  
*Counsel for Defendant*

This, the 12<sup>th</sup> day of September, 2022.



Brenda Menard  
Special Deputy Attorney General  
ATTORNEY FOR PLAINTIFF

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
2021 CVS 2109

STATE OF NORTH CAROLINA, ex rel.,  
NORTH CAROLINA DEPARTMENT OF  
ENVIRONMENTAL QUALITY,

Plaintiff,

v.

WATER RESOURCES, INC.,

Defendant.

**AFFIDAVIT OF**  
**CHARLES D. FRICK, JR.**

I, Charles D. Frick, Jr., being first duly sworn, testify based on my personal knowledge as follows:

1. I am over the age of 18 and under no disability that would prevent me from testifying competently to the matters set forth below. I have personal knowledge of the matters set forth below.
2. I am the Deputy Chief of the Public Water Supply Section within the Division of Water Resources of the North Carolina Department of Environmental Quality. I have been with the Public Water Supply Section within the North Carolina Department of Environmental Quality since 2006.
3. As the Deputy Chief of the Public Water Supply Section, I am responsible for ensuring compliance with the North Carolina Drinking Water Act and the Rules Governing Public Water Systems, which are defined as systems that deliver piped drinking water to at least 15 connections or 25 or more people 60 or more days per year.

4. I am familiar with Defendant Water Resources, Inc., which supplies water to approximately 264 people with 104 connections in the Rocky River Plantation Subdivision in the Town of Harrisburg. It also supplies water to approximately 71 people with 17 connections in the McMillian Acres Subdivision, also in the Town of Harrisburg.
5. Due to the number of people served and the number of connections, Defendant is required by applicable regulations set forth at 15A NCAC 18C .0402(g)(5) to operate with at least two wells or another approved water source. In June of 2019, one of the two wells (designated as “Well 1”) was taken out of service due to radium levels exceeding the maximum contaminant level (“MCL”).
6. While the Public Water Supply Section approved inactivation of Well 1, it advised Defendant that by operating with only one well it was in violation of the aforementioned regulation and must develop a plan for returning the system to compliance. As early as August of 2019, Defendant informed the Public Water Supply Section that it would resolve the violation by installing a new connection with the Town of Harrisburg. After Defendant missed deadlines to install the connection, the Public Water Supply Section brought this matter before the Court.
7. Pursuant to the Consent Judgment entered in this matter, Defendant was ordered to provide the Public Water Supply Section with a plan for getting the system back into compliance (“Compliance Plan”) by either connecting to the Town of Harrisburg or by an alternative means, such as treatment of the well that had been taken off-line. The Consent Judgment requires Defendant to implement this Compliance Plan in accordance with the conditions and dates set forth therein.

8. Defendant submitted a Compliance Plan on August 16, 2021. On September 3, 2021, the Public Water Supply Section notified Defendant that revisions were required to the Compliance Plan. A copy of the letter notifying Defendant of the necessary revisions is attached hereto as **Exhibit 1**. Defendant submitted a revised Compliance Plan on October 18, 2021 (“Revised Compliance Plan”). A copy of the Revised Compliance Plan dated October 18, 2021 is attached hereto as **Exhibit 2**.
9. Pursuant to the Revised Compliance Plan dated October 18, 2021, Defendant was required to:
  - a. Obtain a survey of the easement needed to connect to the Town of Harrisburg’s water system by October 21, 2021;
  - b. Close on the easement purchase and record the easement in Cabarrus County by November 1, 2021;
  - c. Submit complete engineering plans, specifications, and reports for the interconnection to the Town of Harrisburg to the Public Water Supply Section by December 1, 2021;
  - d. Complete construction and submit an Engineer’s Certification and Applicant’s Certification for the completed interconnection to the Town of Harrisburg by April 1, 2022, and
  - e. Place the interconnection into active service by May 2, 2022.
10. The plan was revised once again in February of 2022 solely for the purpose of correcting typographical errors (“Second Revised Compliance Plan”). A copy of the Second Revised Compliance Plan dated February 22, 2022 is attached hereto as **Exhibit 3**. The Second Revised Compliance Plan included all of the same deadlines as the prior version of the

- plan, including a deadline of April 1, 2021 to complete construction of the interconnection to the Town of Harrisburg.
11. On December 10, 2021, Austin Pegues, an engineer from the Public Water Supply Section, met with Mr. Dennis Abbott and members of the North Carolina Utilities Commission Public Staff, Mike Franklin and William Grantmyre, at Defendant's water system. The meeting was held in connection with a rate case pending before the Utilities Commission. During this meeting, one of the Utilities Commission Public Staff representatives recommended that Mr. Abbott evaluate treatment at Well 1 or blending the water from the two wells to return to compliance below the MCL for radium. Mr. Abbott stated that he would have an engineer evaluate these alternatives.
  12. In early February of 2022, the Public Water Supply Section was informed that Defendant's engineer had concluded that mixing of the water from the two wells was not feasible, and that Defendant would return to the original plan to connect to the Town of Harrisburg. Defendant was advised that it must take immediate action to catch up to the Compliance Plan deadlines that had already been missed.
  13. The Public Water Supply Section received the complete engineering plans, specifications, and reports for the interconnection to the Town of Harrisburg from Defendant on May 3, 2022. The Public Water Supply Section requested additional information regarding these documents from Defendant on May 4, 2022. Defendant responded with updated information on May 27, 2022. The Public Water Supply Section then issued an approval of the plans, specifications, and reports on June 8, 2022.
  14. In light of the delay resulting from Defendant's evaluation of the option to blend water from the two wells, the Public Water Supply Section requested that Defendant submit a

revised compliance plan reflecting updated deadlines. A copy of the letter dated June 16, 2022 from the Public Water Supply Section's counsel to Defendant requesting the compliance plan revisions is attached hereto as **Exhibit 4**. The Public Water Supply Section understood the remaining deadlines to be: 1) complete construction of the interconnection to the Town of Harrisburg, and submit a certification of the same to the Public Water Supply Section, and 2) place the interconnection into active service. *See* Exhibit 3 at 1. It was the Public Water Supply Section's understanding that the necessary easement had been obtained already.

15. On July 1, 2022, Defendant submitted the most recent version of the compliance plan ("Final Compliance Plan"). A copy of the Final Compliance Plan dated July 1, 2022 is attached hereto as **Exhibit 5**. According to the Final Compliance Plan, Defendant must:
  - a. Complete construction and submit an Engineer's Certification and Applicant's Certification for the completed interconnection to the Town of Harrisburg by September 9, 2022; and
  - b. Place the interconnection into active service by October 10, 2022.
16. On September 9, 2022, staff of the Mooresville Regional Office of the Public Water Supply Section inspected the Rocky River Plantation water supply system. During this inspection, Public Water Section staff observed that there were no signs that construction of the interconnection to the Town of Harrisburg's water system had been completed. In addition, there were no signs of any activity on site related to construction of the interconnection. There were also no signs that construction of the interconnection had even been initiated. A copy of the report from this site visit is attached hereto as **Exhibit 6**.

17. The public water supply system at the Rocky River Plantation Subdivision remains out of compliance with the North Carolina Drinking Water Act. In particular, the public water supply system is in violation of 15A NCAC 18C .0402(g)(5) because it does not provide at least two wells or, in the alternative, utilize another approved water supply source.

Further this Affiant sayeth not.

This the 12 day of September, 2022.

Charles D. Frick, Jr.  
Charles D. Frick, Jr.  
Deputy Chief  
Public Water Supply Section  
Division of Water Resources

Signed and sworn to (or affirmed) before me this day.

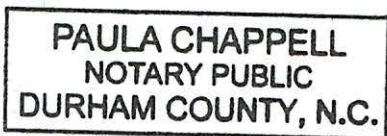
Date: September 18, 2022

Paula Chappell  
Signature of Notary Public

Paula Chappell  
Printed or Typed Name of Notary Public

My Commission Expires: 10/30/2024

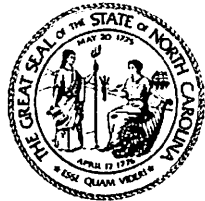
[Official Seal or Stamp]





# **EXHIBIT 1**

ROY COOPER  
Governor  
ELIZABETH S. BISER  
Secretary  
S. DANIEL SMITH  
Director



NORTH CAROLINA  
Environmental Quality

September 3, 2021

Delivered Via Email To:

Dennis Abbott  
Water Resources, Inc.  
dabbott@waterresourcesnc.com

RE: *State of North Carolina ex. rel., North Carolina Department of Environment Quality NC v. Water Resources*, File No. 21 CVS 2109, Cabarrus County

Mr. Abbott:

Pursuant to the consent judgment entered in the matter referenced above on July 16, 2021, Water Resources, Inc. submitted a compliance plan on August 16, 2021 to the Public Water Supply (PWS) Section. This plan contains inadequacies and must be revised in order to be approved. The inadequacies in the plan are addressed in more detail below.

Revise the compliance schedule to specify the starting date for calculating Number of Days:

In the table provided in the "Compliance Schedule" section on page 2 of the plan, the heading of Column 2 should be revised to "Number of Days from Plan Submittal Date (8/16/21)."

Revise the compliance schedule to incorporate submission of engineering plans and specifications to the PWS Section:

Water Resources, Inc. did not interpret provision 1.a. of the Consent Judgment accurately. Provision 1.a. refers to the submittal of plans and specifications to the PWS Section, in accordance with 15A NCAC 18C .0301-.0309. Considering that the compliance plan states that engineering plans and specifications are complete and have been submitted to the Town of Harrisburg, revise Row 1, Column 2 of the table provided in the "Compliance Schedule" section on the plan to include submittal of engineering documentation to the PWS Section in accordance with rule .0301 by October 1, 2021 (i.e., 46 days from the plan submittal).

Revise the compliance schedule to include specific timeframes for both scenarios of acquiring the easement:

For purposes of satisfying provision 1.b. of the Consent Judgment, the compliance schedule provides a range of days to represent two distinct scenarios of acquiring the easement,



North Carolina Department of Environmental Quality | Division of Water Resources  
512 North Salisbury Street | 1634 Mail Service Center | Raleigh, North Carolina 27699-1634  
919.707.9100

OFFICIAL COPY

Sep 29 2022

dependent upon whether or not voluntary agreement for the easement is obtained. Revise the compliance schedule to set forth each scenario and a timeframe in which the requirements of provision 1.b. will be met under each scenario. In other words, Row 2, Column 2 should be revised to state: "180 days if easement is obtained through voluntary agreement," **and** "360 days if easement is obtained through condemnation."

Revise the compliance schedule to reflect an expeditious review process and to include specific timeframes for both scenarios:

The PWS Section can conduct its review for final approval more expeditiously (in 7 days or less) than the estimate provided in the compliance plan. Please revise the timeframes accordingly. Additionally, as noted above, revise the compliance schedule to set forth each scenario and a timeframe in which the requirements of provision 1.c. of the Consent Judgment will be met. In other words, Row 3, Column 2 should be revised to state: "187 days if easement is obtained through voluntary agreement," **and** "367 days if easement is obtained through condemnation."

The Project Timeline Table should be revised such that itemized activities are consistent with the mandatory revisions described above, and any references to "DENR" or "NCDENR" should be changed to "NC DEQ."

As a reminder, the Consent Judgment entered in this matter requires that a plan with the revisions above be submitted within 15 days (i.e., by September 18, 2021).

Sincerely,



Jay Frick  
Technical Services Branch Head  
Public Water Supply Section  
Division of Water Resources  
Department of Environmental Quality

# **EXHIBIT 2**

**REVISED COMPLIANCE PLAN OF WATER  
RESOURCES, INC.**

**SUBMITTED TO THE NORTH CAROLINA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
PUBLIC WATER SUPPLY SECTION  
FOR REVIEW AND APPROVAL IN RESPONSE TO  
INADEQUACIES NOTED BY DEQ**

**OCTOBER 18, 2021**

## Introduction

This document is the Revised Compliance Plan of Water Resources, Inc. (“Water Resources” or “Company”), setting out a plan for returning the Rocky River Plantation system to compliance with the 15A NCAC 18C .0402(g)(5), which requires that a residential community water system using well water as its source of supply and designed to serve 50 or more connections shall provide at least two wells or, in lieu of a second well another approved water source. This Revised Compliance Plan is submitted to the North Carolina Department of Environmental Quality – Public Water Supply Section (“NC DEQ – PWS Section”) as the agency responsible for enforcing this regulation, and as the counterparty to Water Resources, in the execution of the Consent Judgment entered in the Superior Court, Cabarrus County on July 15, 2021, in File No. 21 CVS 2109 (Consent Judgement), and in response to deficiencies noted in the letter dated September 3, 2021 from Jay Frick, Technical Services Branch Head, NC DEQ – PWS Section. Pursuant to the Consent Judgment at Ordering Paragraph No. 1, Water Resources is required to submit to NC DEQ – PWS Section this Revised Compliance Plan, which must include a proposed schedule setting forth the number of days for the completion of the following:

- a. Submitting complete engineering plans, specifications and reports for the interconnection to the Town of Harrisburg,
- b. Completing construction and submitting an Engineer’s Certification and Applicant’s Certification for the completed interconnection to the Town of Harrisburg, and
- c. Placing the interconnection into active service.

## Compliance Plan

As presented in Water Resources’ August 12, 2019 plan, the Company has determined that the most economical and technically feasible option for returning the Rocky River Plantation system to compliance with 15A NCAC 18C .0402(g)(5) is to obtain an interconnection with the Town of Harrisburg. Water Resources has successfully negotiated a purchase price for the easement needed to construct this interconnection and is continuing to work diligently to complete construction.

## Compliance Schedule

Compliance Action	Number of Days from Submittal Date (8/16/21)
Obtain Survey of Easement	66 days (approximately 10/21/21)
Close Sale of Easement Purchase and Record Easement in Cabarrus County	77 days (approximately 11/1/21)
Submit complete engineering plans, specifications, and reports for the interconnection to the Town of Harrisburg	107 days (approximately 12/1/21)
Complete construction and submitting an Engineer’s Certification and Applicant’s Certification for the completed interconnection to the Town of Harrisburg	228 days (approximately 4/1/21)
Placing the interconnection into active service	259 days (approximately 5/2/21)

**Conclusion**

Water Resources appreciates the opportunity to submit this plan and to continue its cooperative relationship with NC DEQ – PWS Section. Should you have additional questions, please feel free to contact the Company.

<b>Water Resources, Inc.</b>		
Revised estimated Project Timeline for Town of Harrisburg Water Line Tie-in		
<b>Date</b>	<b>Description</b>	<b>Status</b>
	Send acceptance letter to landowner agreeing to easement purchase price	Complete
		In process
10/21/21	Obtain Survey of Easement and Legal Description	
11/1/21	Close the sale of easement and record easement agreement/deed of easement in Cabarrus County	Pending Survey and Legal Description
		Pending Close of easement sale
11/15/21	Obtain engineering plans, specifications and reports for the interconnection to the Town of Harrisburg	
12/1/21	Submit to DEQ engineering plans, specifications and reports for the interconnection to the Town of Harrisburg	Pending receipt of engineering plans
		Pending receipt and submission
12/8/21	DEQ – PWS final approval of engineering plans	
4/1/22	Complete construction and submitting an Engineer's Certification and Applicant's Certification for the completed interconnection to the Town of Harrisburg	Pending DEQ – PWS approval and scheduling of contractor
		Pending completion of construction and approvals from DEQ
5/2/22	Place Harrisburg Interconnection Into Service	



# **EXHIBIT 3**

**REVISED COMPLIANCE PLAN OF WATER  
RESOURCES, INC.**

**SUBMITTED TO THE NORTH CAROLINA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
PUBLIC WATER SUPPLY SECTION  
FOR REVIEW AND APPROVAL IN RESPONSE TO  
INADEQUACIES NOTED BY DEQ**

**OCTOBER 18, 2021**

**(REVISED FEBRUARY 22, 2022 TO CORRECT  
SCRIVENER'S ERRORS)**

## Introduction

This document is the Revised Compliance Plan of Water Resources, Inc. (“Water Resources” or “Company”), setting out a plan for returning the Rocky River Plantation system to compliance with the 15A NCAC 18C .0402(g)(5), which requires that a residential community water system using well water as its source of supply and designed to serve 50 or more connections shall provide at least two wells or, in lieu of a second well another approved water source. This Revised Compliance Plan is submitted to the North Carolina Department of Environmental Quality – Public Water Supply Section (“NC DEQ – PWS Section”) as the agency responsible for enforcing this regulation, and as the counterparty to Water Resources, in the execution of the Consent Judgment entered in the Superior Court, Cabarrus County on July 15, 2021, in File No. 21 CVS 2109 (Consent Judgement), and in response to deficiencies noted in the letter dated September 3, 2021 from Jay Frick, Technical Services Branch Head, NC DEQ – PWS Section. Pursuant to the Consent Judgment at Ordering Paragraph No. 1, Water Resources is required to submit to NC DEQ – PWS Section this Revised Compliance Plan, which must include a proposed schedule setting forth the number of days for the completion of the following:

- a. Submitting complete engineering plans, specifications and reports for the interconnection to the Town of Harrisburg,
- b. Completing construction and submitting an Engineer’s Certification and Applicant’s Certification for the completed interconnection to the Town of Harrisburg, and
- c. Placing the interconnection into active service.

## Compliance Plan

As presented in Water Resources’ August 12, 2019 plan, the Company has determined that the most economical and technically feasible option for returning the Rocky River Plantation system to compliance with 15A NCAC 18C .0402(g)(5) is to obtain an interconnection with the Town of Harrisburg. Water Resources has successfully negotiated a purchase price for the easement needed to construct this interconnection and is continuing to work diligently to complete construction.

## Compliance Schedule

Compliance Action	Number of Days from Submittal Date (8/16/21)
Obtain Survey of Easement	66 days (approximately 10/21/21)
Close Sale of Easement Purchase and Record Easement in Cabarrus County	77 days (approximately 11/1/21)
Submit complete engineering plans, specifications, and reports for the interconnection to the Town of Harrisburg	107 days (approximately 12/1/21)
Complete construction and submitting an Engineer’s Certification and Applicant’s Certification for the completed interconnection to the Town of Harrisburg	228 days (approximately 4/1/22)
Placing the interconnection into active service	259 days (approximately 5/2/22)

**Conclusion**

Water Resources appreciates the opportunity to submit this plan and to continue its cooperative relationship with NC DEQ – PWS Section. Should you have additional questions, please feel free to contact the Company.

<b>Water Resources, Inc.</b>		
Revised estimated Project Timeline for Town of Harrisburg Water Line Tie-in		
<b>Date</b>	<b>Description</b>	<b>Status</b>
	Send acceptance letter to landowner agreeing to easement purchase price	Complete
10/21/21	Obtain Survey of Easement and Legal Description	In process
11/1/21	Close the sale of easement and record easement agreement/deed of easement in Cabarrus County	Pending Survey and Legal Description
11/15/21	Obtain engineering plans, specifications and reports for the interconnection to the Town of Harrisburg	Pending Close of easement sale
12/1/21	Submit to DEQ engineering plans, specifications and reports for the interconnection to the Town of Harrisburg	Pending receipt of engineering plans
12/8/21	DEQ – PWS final approval of engineering plans	Pending receipt and submission
4/1/22	Complete construction and submitting an Engineer's Certification and Applicant's Certification for the completed interconnection to the Town of Harrisburg	Pending DEQ – PWS approval and scheduling of contractor
5/2/22	Place Harrisburg Interconnection Into Service	Pending completion of construction and approvals from DEQ

# EXHIBIT 4

JOSHUA H. STEIN  
ATTORNEY GENERAL



Reply to:  
Brenda Menard  
Air Water & Natural Resources  
Environmental Division  
Tel: (919) 716-6966  
Fax: (919) 716-6767  
bmenard@ncdoj.gov

June 16, 2022

**VIA ELECTRONIC MAIL ONLY**

Patrick Buffkin  
pbuffkin@gmail.com

Re: *State of North Carolina ex. rel., North Carolina Department of Environment Quality v. Water Resources, Inc.*, File No.: 21 CVS 2109, Cabarrus County

Dear Patrick:

Enclosed please find a letter dated June 8, 2022 sent to your client from the Public Water Supply Section of the Division of Water Resources approving engineering plans to interconnect the Rocky River Plantation water system with the Town of Harrisburg water system.

Please note that Water Resources, Inc. is not in compliance with the February 22, 2022 Revised Compliance Plan, which required Water Resources, Inc. to have completed construction of the interconnection by April 1, 2022, and to place the interconnection into active service by May 2, 2022. Water Resources, Inc. is therefore not in compliance with the Consent Judgment entered July 16, 2021.

The Public Water Supply Section acknowledges that there was some delay caused by Water Resources, Inc.'s evaluation of another alternative suggested by staff from the Utilities Commission. If Water Resources, Inc. will submit revisions to its Revised Compliance Plan incorporating the updated deadlines as set forth below, the Public Water Supply Section will not initiate contempt proceedings at this time.

Please update the February 22, 2022 Revised Compliance Plan to reflect the following updates to the deadlines for the remaining requirements:

- Complete construction and submit Engineer's and Applicant's Certification to the Public Water Supply Section **no later than September 9, 2022**; and
- Place the interconnection into active service by **no later than October 10, 2022**.

Please submit the update to the Revised Compliance Plan to reflect these deadlines by no later than the end of next week—**Friday, June 24, 2022**.

Feel free to call me at 919-716-6966 if you have any questions.

Sincerely,

/s/ Brenda Menard  
Brenda Menard  
Special Deputy Attorney General

Enclosure: June 8, 2022 Approval Letter

cc w/o enclosure: Jay Frick, Public Water Supply Section



ROY COOPER  
*Governor*  
ELIZABETH S. BISER  
*Secretary*  
RICHARD E. ROGERS, JR.  
*Director*



June 8, 2022

Water Resources, Inc.  
Attention: Dennis Abbott, President  
5970 Fairview Road, Suite 710  
Charlotte, North Carolina 28210

Re: Engineering Plans Approval  
Distribution Extension  
Rocky River Plantation S/D  
Water System No.: NC0113220, Cabarrus County  
Serial No.: 22-00402

Dear Applicant:

Enclosed please find one copy of the "Application for Approval..." together with one copy of the referenced engineering plans bearing the Division of Water Resources stamp of approval for the referenced project. These engineering plans are approved under Division of Water Resources Serial Number 22-00402, dated June 8, 2022.

Engineering plans prepared by Jeffrey D. McCluskey, P.E., call for the installation of approximately 50 feet of 8-inch water main, an 8-inch RPZ, valves and associated appurtenances at the intersection of Tom Savage Drive (SR 1296) and Rocky River Road (SR 1139) to interconnect the Rocky River Plantation S/D water system (NC0113020) with the Town of Harrisburg water system (NC0113025). The proposed 8-inch water main will connect to a proposed 8-inch water main and 4-inch water meter (to be owned by the Town of Harrisburg). This permanent interconnection will be used on an as needed basis and will satisfy the requirements of Rule .0402(g)(5) of another approved water supply source for the Rocky River Plantation S/D water system in lieu of a second well. This project must be constructed in accordance with the Town of Harrisburg's standard specifications.

Please note that in accordance with 15A NCAC 18C .0309(a), no construction, alteration, or expansion of a water system shall be placed into service or made available for human consumption until the Public Water Supply Section has issued Final Approval. Final Approval will be issued and mailed to the applicant upon receipt of both an Engineer's Certification and an Applicant's Certification submitted in accordance with 15A NCAC 18C .0303 (a) and (c).

These plans in the foregoing application are approved insofar as the protection of public health is concerned as provided in the rules, standards and criteria adopted under the authority of Chapter 130A-317 of the



North Carolina Department of Environmental Quality | Division of Water Resources  
512 North Salisbury Street | 1634 Mail Service Center | Raleigh, North Carolina 27699-1634  
919.707.9100

OFFICIAL COPY

Sep 29 2022

Water Resources, Inc.  
Attention: Dennis Abbott, President  
Page 2 of 2  
June 8, 2022

General Statutes. This approval does not constitute a warranty of the design, construction, or future operation of the water system.

One copy of the "Application for Approval..." and a copy of the plans with a seal of approval from the department are enclosed. One copy of the approved documents in a digital format (CD) is being forwarded to our Mooresville Regional Office. The second copy of the CD is being retained in our office.

If the Public Water Supply Section can be of further service, please call (919) 707-9100.

Sincerely,

Handwritten signature of Jay Frick in black ink, followed by the text "/for".

Jay Frick  
Deputy Section Chief  
Public Water Supply Section  
Division of Water Resources

RWM/SB

Enclosures: Approval Documents

cc: Clinton Cook, P.E., Mooresville Regional Office  
Cabarrus County Health Department  
Mc2 Engineering, Inc.  
Mallory Hodgson, P.E., Town of Harrisburg, PO Box 100, Harrisburg, NC 28075

OFFICIAL COPY

Sep 29 2022

# **EXHIBIT 5**

**FOURTH REVISED COMPLIANCE PLAN OF  
WATER RESOURCES, INC.**

**SUBMITTED TO THE NORTH CAROLINA  
DEPARTMENT OF ENVIRONMENTAL QUALITY**

**PUBLIC WATER SUPPLY SECTION**

**JULY 1, 2022**

## Introduction

This document is the Fourth Revised Compliance Plan of Water Resources, Inc. (“Water Resources” or “Company”), setting out a plan for returning the Rocky River Plantation system to compliance with the 15A NCAC 18C .0402(g)(5), which requires that a residential community water system using well water as its source of supply and designed to serve 50 or more connections shall provide at least two wells or, in lieu of a second well another approved water source. This Fourth Revised Compliance Plan is submitted to the North Carolina Department of Environmental Quality – Public Water Supply Section (“NC DEQ – PWS Section”) as the agency responsible for enforcing this regulation, and as the counterparty to Water Resources, in the execution of the Consent Judgment entered in the Superior Court, Cabarrus County on July 15, 2021, in File No. 21 CVS 2109 (Consent Judgement), and in response to the letter dated June 16, 2022, from Brenda Menard, Special Deputy Attorney General, on behalf of NC DEQ – PWS Section. Pursuant to the Consent Judgment at Ordering Paragraph No. 1, and Ms. Menard’s letter, Water Resources is required to submit to NC DEQ – PWS Section this Fourth Revised Compliance Plan, reflecting the following updates for the remaining requirements of the Consent Judgement:

- a. Complete construction and submit Engineer’s and Applicant’s Certification to the Public Water Supply Section no later than September 9, 2022, and
- b. Placing the interconnection into active service by no later than October 10, 2022.

## Revisions Included in this Fourth Revised Compliance Plan

### Compliance Schedule

Compliance Action	Number of Days from Submittal Date (7/1/22)
Complete construction and submit Engineer’s and Applicant’s Certification to the Public Water Supply Section	70 days (9/9/22)
Placing the interconnection into active service	101 days (10/10/22)

## Conclusion

Water Resources appreciates the opportunity to submit this fourth revised compliance plan and to continue its cooperative relationship with NC DEQ – PWS Section. Should you have additional questions, please feel free to contact the Company.

# EXHIBIT 6

**SITE VISIT REPORT**

Name \_\_\_\_\_ Date \_\_\_\_\_

**Water System Name:** ROCKY RIVER PLANTATION S/D

**Water System No.:** NC0113220

**Site Visit Primary Reason:** CNST

**Date of Visit:** 09/09/2022 MM/DD/YYYY

- Sanitary Survey (SNSV)
- Sanitary Survey Follow Up (SSVF)
- Sanitary Hazard Investigation (SHAZ)
- Compliance Assistance (CMPA)
- Water Treatment Plant Site Visit (TRTP)
- Training (TRNG)
- Emergency Assistance (EMRG)
- Engineering Determination/Advice/Plan Review (ENGR)
- Investigation (Complaint/Violation/etc) (INVG)
- Laboratory Inspection (LABI)
- Informal System Inspection (INFI)
- Permit (Qualification/Review/Compliance)
- Sample Collection (SMPL)
- Technical Assistance (non-specific) (TECH)
- Variance/Exemption Related (VAEX)
- Formal Enforcement (FENF)
- Follow-up to Formal Enforcement (FUFE)
- Informal Enforcement (IENF)
- Comprehensive Performance Evaluation (CPE) (CPEV)
- Construction Inspection (CNST)
- Operation & Maintenance (OM)
- Needs Survey (NEED)
- Records Review (RCDR)
- Site Inspection (SITE)
- Source Water Inspection (SRCE)
- Locational Data Collection (LOCD)
- Wellhead Protection Program (WHPP)
- State Revolving Fund (SRF)
- Capacity Development Assessment (CAPD)
- Watershed Evaluation (WSHD)
- Cross-Connection Inspection/Investigation (XCON)
- Public Hearing (PUBH)

**PWSS Staff:** WHITNER, RAY

If >1 staff member, list primary first.

**Person(s) Contacted:** \_\_\_\_\_

**Comments From the Last Site Visit:** (comments must not exceed 300 words):

The purpose of this visit was to verify the construction status of project SN:22-00402. This project is approved for an interconnection of the City of Harrisburg water system to the Rocky Road Plantation S/D water system at the intersection of Tom Savage Drive and Rocky River Road. Arrived at the project site at approximately 8:58 AM, September 9, 2022. Found no signs the following:

- Project completion; construction of meter vault below grade and above grade backflow prevention device box.
- Activity on site related to project construction.
- Preparations to initiate project construction.

**IMMEDIATE Attention Needed by Data Entry (to record changes as indicated):**

- |   |  |                                      |
|---|--|--------------------------------------|
| <input type="checkbox"/> Activity Status (Deactivation, Reactivation) | <input type="checkbox"/> Legal Entity                    | <input type="checkbox"/> Entry Point |
| <input type="checkbox"/> Population - affects compliance only         | <input type="checkbox"/> Source Activity Status          | <input type="checkbox"/> WS Name     |
| <input type="checkbox"/> State Type                                   | <input type="checkbox"/> Treatment Plant Activity Status | <input type="checkbox"/> New System  |

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
2021 CVS 2109

<p>STATE OF NORTH CAROLINA, <u>ex rel.</u>, NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>WATER RESOURCES, INC.,</p> <p style="text-align: center;">Defendant.</p>	<p style="text-align: center;"><b><u>ORDER TO SHOW CAUSE</u></b></p>
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The Court having considered the Motion for Entry of Order to Show Cause for Civil Contempt filed by Plaintiff and the attached affidavit, and it appearing to the Court that there is probable cause to believe that Defendant Water Resources, Inc. is in contempt of court;

NOW THEREFORE, IT IS ORDERED that Defendant Water Resources, Inc. shall appear on \_\_\_\_\_, 2022 at \_\_\_\_\_ a.m., or as soon thereafter as the Court may hear the matter, in the Superior Court of Cabarrus County, and show cause, if any there may be, why it should not be held in contempt for violating the Consent Judgment entered on July 16, 2021.

IT IS FURTHER ORDERED that Plaintiff's counsel serve a copy of this Order upon Defendant in accordance with Rule 5 of the North Carolina Rules of Civil Procedure.

This the \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Superior Court Judge