



Catherine E. Heigel, Director

*Promoting and protecting the health of the public and the environment*

November 6, 2015

**VIA CERTIFIED MAIL**

Alva C. Kirby  
2148 Heath Pond Road  
Elgin, S.C. 29045

RE: Notice of Violation  
Emergency Order  
Cook's Pond Dam  
Dam #D-1068

On October 15, 2015, the Department issued an Emergency Order (Attachment A) to you concerning the above referenced dam. The Emergency Order was served upon you by certified mail on October 29, 2015. Order Requirement No. 2 (on page 3 of the Emergency Order) required you to, "Have a detailed inspection conducted, as defined in the Dams and Reservoirs Safety Act and the Dams and Reservoirs Safety Regulations, of the dam, reservoir, and all appurtenant works by a qualified registered professional engineer licensed to practice in South Carolina. The results of the detailed inspection, including a plan of action to be taken, shall be submitted by the engineer to the Department no later than 5:00 P.M. on October 30, 2015."

As of the date of this letter, Department records indicate that an email message had been sent to an engineer requesting assistance, but Mr. Alva C. Kirby has not complied with the Emergency Order.

Failure to comply with the Emergency Order is a violation of the SC Dams and Reservoir Safety Act, S.C. Code Ann. 49-11-110, et seq., (2008) and Regulation 72-1, et seq. (2012). Such violation subjects you to an enforcement action, which includes assessment of penalties as set forth in the SC Dams and Reservoir Safety Act, S.C. Code Ann. 49-11-260 (2008). In addition, failure to comply with the Emergency Order may result in the Department deploying response contractors to perform work necessary to safeguard life and property up to and including implementation of an engineered breach of the dam with no further notice. **The Dams and Reservoirs Safety Act, Section 49-11-190(D) provides the Department the authority to recover from the owner in the name of the state, the expenses incurred when the owner fails to comply with the Emergency Order. These expenses may be substantial.**

You must provide results of a detailed inspection as defined in the Dams and Reservoirs Safety Act and the Dams and Reservoirs Safety Regulations, including a plan of action, in accordance with Requirement No. 2 of the Emergency Order to the Department by **5:00 PM, Monday, November 16, 2015**. Submitting this response will not relieve Mr. Alva C. Kirby of the responsibility for fully complying with the remaining requirements of the Emergency Order, including Order Requirement No. 1 (on page 3 of the Emergency Order). Submit these documents to me at [bill.krecker@dhec.sc.gov](mailto:bill.krecker@dhec.sc.gov) or 803-898-4215 (facsimile). Questions about this Notice may be directed to me at (803) 898-4247.

Sincerely,

William R. Krecker  
Water Pollution Control Division  
Bureau of Water

C: Adam Cannon, Manager, WPC Enforcement  
David Graves, Manager, SCDHEC Dams & Reservoir Safety Program

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
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