

# Major polluters, minor fines

By Charles Sowell

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Journal

Buried in the minutia of the state Department of Environmental Control's statistical maze is an enforcement record on pollution issues with major industries that critics call dismal.

The numbers are hard to get to within the DHEC database, but are easily found in the federal Environmental Protection Agency's Enforcement and Compliance History Online (ECHO) database.

South Carolina has 166 major facilities regulated by DHEC under EPA supervision and a noncompliance rate of 75 percent; 30.1 percent were in "significant noncompliance." On that, DHEC assessed \$35,899 in penalties.

North Carolina, on the other hand, regulated 214 major industries with a 29 percent noncompliance rate; 17.8 percent in significant noncompliance with \$215,635 in penalties.

"This is more bad news for South Carolina," said Brad Wyche, executive director of

➤ During the course of discovery, consultants discovered a free-flowing leak in the dike separating the holding ponds from the river, Guild said. A search of records indicated the leak had been reported before years ago.

Adam Myrick, a spokesman for DHEC, said the agency is aware of the leak and is in consultation with SCE&G.

"We think the leaks are actually wet spots that can be traced to recent rains," he said.

He attributed the differences in enforcement rates with North Carolina to a difference in philosophy.

"North Carolina does a lot of small fines on smaller industries," he said. "Many of our smaller industries don't have the capital to make wholesale improvements."

A spot check of DHEC's most recent enforcement report to the agency's board (Aug. 13) showed the agency accessed \$117,010 in all types of penalties and \$3,500 on an administrative order.

The vast majority of penalties were levied against small companies.

In June, the report said, DHEC issued \$15,350 in fines for water pollution issues.

Blan Holman, a senior attorney with the Southern Environmental Law Center in Charleston, said a big reason for the discrepancy between North Carolina and South Carolina enforcement rates can be

Upstate Forever, an environmental advocacy group. "The number of violations and the lack of enforcement are very disturbing. There should be serious consequences for violating our clean water laws and regulations. No law is effective unless it's enforced."

A lawsuit over South Carolina Electric and Gas's Wateree coal-fired generating plant is illustrative, said Bob Guild, a Columbia environmental attorney arguing the issue now before an administrative law judge.

"Essentially SCE&G cleaned up their

fraced to a wrinkle in the Clean Water Act that requires those who file suit over water pollution issues to give DHEC and the polluter 60-days notice before going to court.

"What often happens is DHEC will enter into an agreement with the polluting industry to deal with the issue, and issue a token fine, before the issue can come to court," he said. "The court is told the issue has been dealt with and the suit goes no farther."

Guild said the 60-day issue has come under scrutiny in the past and cited U.S. District Judge Joe Anderson's 1995 ruling that DHEC's consent order with Laidlaw Environmental Services in Roebuck amounted to the state issuing a check for \$2.4 million to the now defunct hazardous waste disposal company.

"DHEC fined Laidlaw \$100,000 under a consent order," Guild said. "But we were able to show that the company continued to operate in a dangerous manner and had profited by \$2.5 million during the course of the lawsuit."

There were more than 200 violations against Laidlaw cited over a number of years mostly for mercury pollution of the North Tyger River.

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act so far as air pollution is concerned by installing scrubbers on the smokestacks that remove most of the really nasty stuff," Guild said. "Then they started dumping the ash and material removed by the scrubbers into unlined holding ponds along the banks of the Wateree River."

The unlined holding ponds leak, Guild said.

"We've recorded arsenic levels as high as 7,000 parts per billion (ppb) in ground water," Guild said. "In addition to being a deadly poison, arsenic is a carcinogen. EPA's maximum allowed level is 10 ppb."

Arsenic is one element contained in the witch's brew of dangerous materials found in coal ash, he said. ➤