

C a t a w b a
RIVERKEEPER®
ADVOCACY • EDUCATION • PROTECTION

August 14, 2013

Ms. Lisa Palmer
N.C. DENR, Division of Water Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617
Lisa.Palmer@NCDENR.gov

Re: Draft Consent Order, *State of North Carolina ex rel. N.C. DENR, Division of Water Quality v. Duke Energy*, 13 CVS 4061 (Wake County) and 13 CVS 9352 (Mecklenburg County)

Dear Ms. Palmer:

As a born-and-raised North Carolinian and as the Catawba Riverkeeper, I wanted to submit some personal comments in addition to those submitted representing the Catawba Riverkeeper Foundation (CRF) and the Southern Environmental Law Center (SELC).

I have long said that I would never want to live anywhere in the world except North Carolina, where incredible mountains, incredible beaches, just-right weather, and an up-and-coming pace have made this region a joy to be raised in, as well as to plan to raise children of my own. However, the past decade has seen North Carolina slip in its environmental progress that has often made it stand out, especially as a southern state, encouraging people and businesses to relocate here.

Coal ash lagoons are not a political issue, for these problems have persisted with both Democratic and Republican leadership. After all, environmental protection is neither a liberal nor a conservative issue – It is both, and one that in theory would be primed for bipartisanship. However, the basic principles (actually often libertarian in tone) behind the mindset of environmental protection seem to be increasingly lost on those responsible for generating and enforcing environmental laws and regulations. Sadly, these are principles that we are striving to instill in children as basic principles of life. And the Draft Consent Order could not be more devoid of such principles.

What are these principles? Cleaning up your own mess. Respecting your neighbor. Leaving something at least as good as you found it. Letting the private sector do the job. Integrity. Fairness. Honesty.

Growing up, my Saturdays were rarely devoid of mowing the lawn or performing yard work. And as a persistently hungry growing boy, I also loved to cook. Whether in the kitchen or the yard, my activities made a mess. However, if I wanted to keep my free reign in the kitchen or if I wanted to receive my weekly allowance, you can bet I wasn't going to leave a mess of flour/spices/dishes or clippings/dirt. I cleaned up my mess. But I did not clean up my mess in spite – it was not difficult to realize that it was just the right thing to do. It is a simple principle we teach children. In the case of the Boy Scouts who meet on the banks of Mountain Island Lake at Riverbend, they are taught to camp while 'leaving no trace' or 'packing in, packing out.' Another principle is that if there is a problem, be honest about it and address it. Duke Energy has failed to demonstrate these principles, and the proposed Draft Consent Order will only be an enabling, reinforcing document akin to an authority figure failing to keep in check an individual they oversee. Duke has demonstrated that it lacks the self-discipline to do what is both necessary and right.

In the case of Riverbend, not only should Duke clean up the 71 acres of leaking coal ash lagoons propped up 80 feet above the drinking water reservoir like mashed potatoes holding back toxic gravy on a plate, Duke owes it to the people of this state, as well as those downstream. The plot of land on which Riverbend has operated for almost a century has been sacrificed for the success of Duke. Riverbend was one of Duke's earliest plants and helped the company grow into what is now **the world's largest publically-traded utility**. The least Duke can do is leave the land like it found it. After all, other – and smaller – utilities are cleaning up their mess. South Carolina Electric & Gas (SCE&G) agreed to clean up its coal ash ponds on the Wateree River and (for a plant continuing to operate) convert to dry ash handling. Duke itself regularly cleaned out the coal ash at the Riverbend lagoons when they filled up. Why can't there be one more cleanout?

Finally, coal ash is a well-documented problem, especially at Riverbend. If Duke is not held accountable – which they are not in the Draft Consent Order – citizens will be left footing the bill. For generations to come, the coal ash from these unlined lagoons will continue to leach toxic metals into the drinking water reservoir. Leaving an old, leaching waste site like Riverbend in place will be paid for by citizens in drinking water treatment bills, in healthcare bills, in lost recreation, and in tax bills should a cleanup be deemed necessary. The EPA and state agencies – funded by taxpayer dollars – have often footed cleanup bills where waste was subject to improper handling, as we now know unlined wet ash handling to be, especially with so many power plants switching to dry ash handling with lined landfills.

Perhaps most disturbing is the lack of integrity, honesty, and forthcoming-ness exhibited by Duke regarding the seepage and unpermitted discharges. In its 2009 NPDES permit application, Duke failed to disclose the multiple point discharges I identified over the past year. And this is no technicality. Every bit of Riverbend's 367.5 million gallons per day of water use budgeted to area of use down to the thousands of gallons. Every outfall and storm water runoff point is extensively detailed so that appropriate monitoring provisions can be implemented. Yet, multiple engineered French drain systems to convey

hundreds of thousands of gallons per day into Mountain Island Lake go completely unmentioned in the permit application. How are they supposed to be monitored? How is the public supposed to have input on these? When 14 storm water outfalls need to be described, wouldn't you imagine the permit application should mention the constantly running French drain streams draining the concentrated bottoms of the coal ash lagoons? The Duke employee preparing the application signed off on the outfall listings as being complete, certifying so under penalty of law.

The Greek legend of the Sword of Damocles describes a man who sits in a king's throne, only to have a sword dangled above his head, held only by a single hair. Meant to convey the fear under which a ruler lives, the coal ash lagoons are very much the sword of Damocles being left to linger over the drinking water reservoir. Flood inundation maps show that high waters rise up to the dikes, and with the regular high water Mountain Island Lake sees (given that it lacks a flood gate), such inundation will continue to destabilize the massive dikes behind which the toxic slurry of coal ash looms. Were the dikes to fail as happened in Kingston, Tennessee, in 2008, the region would have one of its worst catastrophes not just in the extreme contamination of the drinking water reservoir for 860,000 people and the ensuing economic impact on business (both current and prospective), but as one of 44 EPA-rated High Hazard Coal Ash Impoundments, there is the potential for loss of life, too.

The problem is simple – Duke has very old coal ash lagoons with metal-laden ash waste and other chemicals. The lagoons are leaking extensively. Duke is no longer operating the plant for which the lagoons were needed. There are 860,000 people immediately below Riverbend who drink the water, as people have done from the Catawba long before Duke dammed the river.

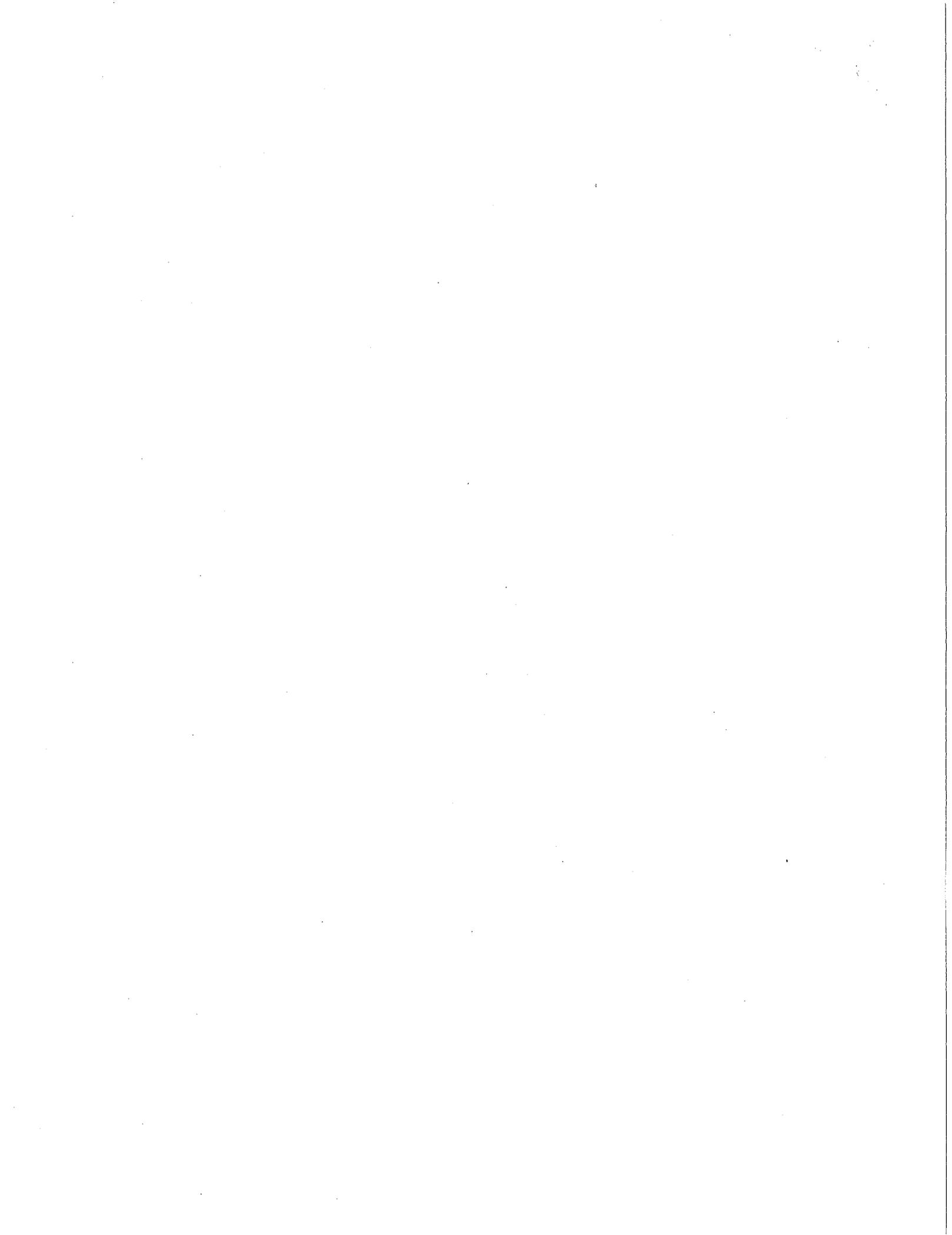
The solution is simple – remove the source of contamination. Instead, the proposed solution is to request information on the contamination that Duke has long claimed DENR already had. First and foremost, why would anyone agree to a settlement if they didn't already have important information, like the subject of the lawsuit in the first place? It's a mockery of the system. I have trekked through mud, water and public records to gather my own information. There is no need for additional time and information, and I think DENR knows it, too. There is no ambiguity. Duke made a mess. Why is there any question about whether or not they should clean it up?

Sincerely,



S. Samuel Perkins, Catawba Riverkeeper[®]

Catawba Riverkeeper[®] is a member of Waterkeeper Alliance, Inc.
Riverkeeper is a registered trademark of Riverkeeper, Inc., and is licensed for use herein.



To: Presiding Judge, Superior Court of Wake County
From: Scott Boatwright
Date: 31 July 2013
Re: Draft Consent Order in *State of North Carolina ex rel. NCDENR v. Duke Energy Progress, Inc.*, 13-CVS-4061

I object to the Draft Consent Order proposed for the captioned case.

My home is less than one mile from Duke's Asheville Plant and approximately one mile from the French Broad River. My connection to the allegations in the Amended Complaint is personal. Additionally, I am a customer and shareholder of Duke Energy. I recognize the necessity of successful public utilities for North Carolina.

In paragraphs 80 – 82 of the Amended Complaint, NCDENR alleges that its staff members observed several unpermitted seeps from the Asheville Plant up to the banks of the French Broad River on March 11, 2013. It is unclear from the Amended Complaint whether NCDENR staff have conducted any subsequent inspections for unpermitted seeps since that day.

The Draft Consent Order does not contain any specifics about this March 2013 visit, the seeps that were seen, or the contents of the wastewater that was seeping to the banks of the French Broad. Yet, the Draft Order proposes that Duke pay a civil penalty of \$51,500 to resolve *all* “alleged violations or threatened violations known to DWQ that occurred or existed on or before July 15, 2013.” Draft Consent Order, ¶31. Where did the \$51,500 figure come from? How many violations does NCDENR know about? What was the scale of each violation? How did NCDENR decide on an appropriate penalty for each violation? How has NCDENR looked for violations since the single site visit described in the Amended Complaint? To these questions unaddressed by the Draft Consent Order, I will add one more: How is a citizen of North Carolina to determine whether this proposed settlement is fair without the Draft Consent Order providing all of the facts that NCDENR knows about at this time? Please do not approve any order resolving this litigation without answers to these questions disseminated well in advance of a court hearing.

In its Amended Complaint, NCDENR alleges that its staff witnessed multiple unpermitted seeps on what may have been the only site visit staff made to look for them. Yet, the Draft Consent Order does not require Duke to immediately stop the unpermitted discharges. I am, admittedly, a layperson when it comes to water quality matters, but I cannot understand why the state agency charged with enforcing North Carolina's laws regarding water quality would allege that its staff

members witness unpermitted wastewater seeps up to the banks of a major waterway, then agree to a Draft Consent Order that does not require those seeps to be stopped immediately. The settlement would let Duke continue to study whether there exists a problem that NCDENR has already alleged that it witnessed. I object heartily to that. Any consent order must require Duke to *stop* all illegal water discharges that are ongoing, not study them.

The Draft Consent Order would also allow Duke *one hundred eighty days* to take action after it determines that any discharge in violation of state or federal law is taking place. Draft Consent Order, ¶42. Why, pray tell, would NCDENR agree to a settlement that would allow a business it knows to already be violating state water quality laws six months to choose among five different responses to another violation of state law? Why is there nothing in the Draft Consent Order requiring Duke to notify NCDENR immediately—the same day—when Duke becomes aware of a discharge that is violating the law? The Court should approve a consent order ending this litigation only if it provides that Duke will give immediately notice of illegal discharges and begin taking action to abate an illegal discharge on the *same day* that it is discovered.

The litigation pending in your Court impacts each North Carolinian, but those of us in the counties through which the French Broad flows are disproportionately impacted. Before litigation of this scope is settled, we need a public hearing in Asheville at which Duke and NCDENR can explain why the Draft Consent Order makes sense and answer questions from citizens with concerns. Please require such a hearing as a condition of your acceptance of any consent order.

Thank you for considering my views.



T: 919.857.4699
F: 919.833.8819

19 East Martin Street
Suite 300
Raleigh, NC 27601

www.nccconservationnetwork.org

August 14, 2013

Lisa Palmer
Division of Water Quality
N.C. Department of Environment and Natural Resources
1617 Mail Service Center
Raleigh, NC 27699

Re: Draft Consent Order, *State of North Carolina ex rel. N.C. Department of Environment and Natural Resources, Division of Water Quality v. Duke Energy*, 13 CVS 4061 (Wake Co.) and 13 CVS 9352 (Mecklenburg Co.)

Dear Ms. Palmer:

Thank you for the opportunity to comment on the proposed consent order between the Division of Water Quality, Duke Energy Progress, Inc. and Duke Energy Carolinas, LLC for claims related to the Riverbend Steam Station and the Asheville Steam Electric Generating Plant.

This letter is being submitted on behalf of the North Carolina Conservation Network, a statewide network of more than 90 environmental, community and environmental justice organizations focused on protecting the state's environment and public health. Our affiliates represent a broad spectrum of the environmental community by size, issue and geography, including concerned groups and citizens in Gaston County and Buncombe County, the sites of the Riverbend Steam Station and Asheville Steam Electric Generating Plant.

As discussed in more detail below, the proposed consent order is legally insufficient. The Court must restructure the settlement to require Duke to cease the illegal discharge of contaminated water and take immediate action to protect groundwater resources. This letter also serves as a request for a public hearing on the Draft Consent Order.

I. Background

Duke Energy Carolinas, LLC ("Duke") owns the Riverbend Steam Station ("Riverbend facility") in Gaston County. Unlined coal ash ponds containing 2.7 million tons of wet coal ash sit on the Riverbend property above the banks of Mountain Island Lake, the drinking water reservoir for the entire Charlotte-Gastonia-Mount Holly region (approximately 860,000 people). These lagoons discharge unpermitted streams of contaminated water into Mountain Island Lake and leach pollutants into the groundwater.

Duke Energy Progress, Inc. ("Duke") owns the Asheville Steam Electric Generating Plant ("Asheville facility") in Buncombe County. Unlined coal ash ponds sit on the Asheville facility property. These coal ash ponds discharge unpermitted streams of contaminated water into the French Broad River and leach pollutants into the groundwater.

In May 2013, the N.C. Department of Environment and Natural Resources (“DENR”) filed two separate complaints¹ against Duke for unpermitted discharges and violations of groundwater standards at the Riverbend and Asheville facilities.² In its complaints, DENR stated that the violations “pose[] a serious danger to the health, safety and welfare of the people of the State of North Carolina and serious harm to the water resources of the State.”³ DENR requested that the Court issue an injunction requiring Duke to abate the violations at those facilities.⁴

The draft consent order, however, fails to require the abatement of both the unpermitted discharges and the groundwater violations. Instead, it calls for numerous studies and assessments under an open-ended timetable, delaying any potential action and allowing Duke to continue polluting Mountain Island Lake, the French Broad River and groundwater with coal ash contamination.

II. The Draft Consent Order is Legally Insufficient

Under state law, “upon a determination by the court that the alleged violation of the provisions of this Part or the regulations of the Commission has occurred or is threatened, the court shall grant the relief necessary to prevent or abate the violation or threatened violation.” N.C. Gen. Stat. § 143-215.6C. The proposed consent order is legally insufficient for its failure to require the abatement of pollution at the Riverbend and Asheville facilities, instead allowing the unpermitted discharges and groundwater contamination to continue indefinitely as Duke undertakes a seemingly open-ended sequence of studies and assessments.

A. The Draft Consent Order Does Not Require Duke to Stop Unpermitted Discharges

The Clean Water Act (“CWA”) makes it unlawful to discharge pollutants unless authorized by a National Pollutant Discharge Elimination System (“NPDES”) permit. 33 U.S.C. § 1301(a). North Carolina is authorized to issue NPDES permits, and state law further prohibits unpermitted discharges to waters of the state. N.C. Gen. Stat. § 143-215.1(a)(1) and (6).⁵ Any discharge that is not included in a facility’s NPDES permit is strictly prohibited by both the CWA and state law.

¹ Complaint and Motion for Injunctive Relief, *State of North Carolina ex rel. N.C. DENR, DWQ v. Duke Energy Carolinas, LLC*, No. 13 CVS 9352 (Mecklenburg Co., May 24, 2013); *State of North Carolina ex rel. N.C. DENR, DWQ v. Duke Energy Progress, Inc.*, No. 13 CVS 4061 (Wake Co., May 20, 2013).

² DENR filed these actions after the Catawba Riverkeeper Foundation filed notices of intent to sue for violations under the Clean Water Act.

³ No. 13 CVS 9352 at ¶ 67; No. 13 CVS 4061 at ¶ 103.

⁴ No. 13 CVS 9352 at p. 13, ¶ 2; No. 13 CVS 4061 at p. 22, ¶ 2.

⁵ State statute requires a permit before any person can “make any outlets into the waters of the state” or “cause or permit any waste, directly or indirectly, to be discharged to or in any manner intermixed with the waters of the State in violation of the water quality standards applicable to the assigned classifications . . . unless allowed as a condition of any permit, special order or other appropriate instrument issued or entered into by the Commission under the provisions of [Article 21 of Chapter 143 of the General Statutes].” N.C. Gen. Stat. § 143-215.1(a)(1) and (6).

In its May 2013 complaint, DENR stated that “upon information and belief,” it believed the Riverbend facility was discharging pollutants without a permit in violation of state law.⁶ In a separate complaint, DENR stated that Division of Water Quality (“DWQ”) staff had inspected the Asheville facility in March 2013 and observed unpermitted discharges.⁷ DENR also believed there to be additional unpermitted discharges at the Asheville facility.⁸ In both complaints, DENR stated that Duke’s unpermitted discharges are violations of N.C. Gen. Stat. §§ 143-215.1(a)(1) and (a)(6),⁹ and asked the court to issue an injunction requiring Duke to abate the violations.¹⁰

The Court’s proposed consent order, however, is alarmingly deficient. Rather than requiring Duke to cease its unpermitted discharges, it simply establishes an indefinite timeline for assessments and studies of the already well-documented pollution. Under the proposed order, Duke would have 180 days to “submit a plan to determine whether [unpermitted discharges] . . . have reached surface waters.”¹¹ The determination itself would take place at a yet unknown date according to a timeline submitted by Duke. Furthermore, any abatement that may potentially take place under the proposed order would only be required an additional 180 days after that determination is made.¹² The potential for delay is staggering.

Under both the CWA and state law, the only viable remedy for the unpermitted discharges at the Riverbend and Asheville facilities is to cease or permit those discharges. In addition, as referenced by DENR in its complaint,¹³ state law requires that “upon a determination by the court that the alleged violation of the provisions of this Part or the regulations of the Commission has occurred or is threatened, the court shall grant the relief necessary to prevent or abate the violation or threatened violation.” N.C. Gen. Stat. § 143-215.6C. The proposed consent order fails to require Duke to cease its unpermitted discharges into Mountain Island Lake and the French Broad River, contrary to both the CWA and state law.

B. The Draft Consent Order does not Require Immediate Action to Remedy Groundwater Contamination

State regulations contained in 15A N.C.A.C. Subchapter 2L (“2L Rules”) “establish a series of classifications and water quality standards applicable to groundwaters of the State.” 15A N.C.A.C. 2L.0101(a). Under the 2L Rules, “[n]o person shall conduct or cause to be conducted, any activity which causes the concentration of any substance to exceed” groundwater standards. 15A NCAC 2L.0103(d). The Riverbend and Asheville facilities each have a compliance boundary “at and beyond which groundwater quality standards may not be exceeded.” 15A NCAC 2L.0102(3).

⁶ No. 13 CVS 9352 at ¶ 58-59.

⁷ No. 13 CVS 4061 at ¶ 80.

⁸ *Id.* at ¶ 81.

⁹ No. 13 CVS 9352 at ¶ 65; No. 13 CVS 4061 at ¶ 100.

¹⁰ No. 13 CVS 9352 at p. 13, ¶ 2; No. 13 CVS 4061 at p. 22, ¶ 2.

¹¹ Draft Consent Order, *State of North Carolina ex rel. N.C. Department of Environment and Natural Resources, Division of Water Quality v. Duke Energy*, 13 CVS 4061 (Wake Co.) and 13 CVS 9352 (Mecklenburg Co.) at ¶ 41, 59.

¹² *Id.* at ¶ 42; 60.

¹³ No. 13 CVS 9352 at ¶ 66; No. 13 CVS 4061 at ¶ 102.

In its May 2013 complaint, DENR referenced data collected at the Riverbend facility that demonstrated exceedances of state groundwater standards for Iron and Manganese between February 2011 and March 2013.¹⁴ Likewise, at the Asheville facility, data shows exceedances for Iron, Manganese, Boron, Thallium and Total Dissolved Solids (TDS).¹⁵ As stated by DENR in its complaint, “exceedances of the groundwater standards for Iron, Manganese, Boron, Thallium, and TDS at the compliance boundary of the Asheville [facility] are violations of the groundwater standards as prohibited by [the 2L Rules].”¹⁶

In the case of an exceedance at or beyond the compliance boundary, the 2L Rules mandate “immediate action to eliminate the source or sources of contamination.” 15A N.C.A.C. 2L.0106(c)(2). In order to remedy these violations, DENR asked the court to “permanently enter a mandatory injunction requiring [Duke] to abate the violations of . . . groundwater standards” at the compliance boundary of the Riverbend and Asheville facilities.¹⁷

The proposed consent order, however, unlawfully fails to require immediate action. Instead, it again establishes an indefinite timeline for assessments and studies of the already well-documented pollution. Following a series of assessments and a redundant determination of exceedances of groundwater standards, Duke would have 60 days to submit a plan to conduct a site assessment and propose its own schedule for implementing that plan.¹⁸ Aside from the incredible potential for ongoing delay, explicitly missing from this consent order is any requirement to take immediate action to eliminate the source of contamination.

III. Conclusion

The proposed consent order is legally insufficient and creates the potential for serious delay. The settlement should be restructured with strict, enforceable timelines requiring Duke to cease its unpermitted discharges and take immediate action to eliminate sources of groundwater contamination. A long term solution is needed for these facilities, and the court should require Duke to close the coal ash ponds at the Riverbend and Asheville facilities and store the coal ash in a dry state in lined landfills, far removed from Mountain Island Lake and the French Broad River.

Ongoing violations at the Riverbend and Asheville facilities are longstanding and well documented. Allowing Duke to continue polluting these resources as it undertakes open-ended assessments not only contravenes unambiguous state and federal law, but also sets a troubling precedent. This proposed consent order sends a clear signal that the law does not apply to Duke. DENR has stated that Duke’s violations “pose[] a serious danger to the health, safety and welfare of the people of the State of North Carolina and serious harm to the water resources of the State.”¹⁹ The court must hold Duke accountable for its repeated violations and protect the water resources that are essential to the state and its citizens.

¹⁴ No. 13 CVS 9352 at ¶ 61, 62.

¹⁵ No. 13 CVS 4061 at ¶ 84-88.

¹⁶ No. 13 CVS 4061 at ¶ 89.

¹⁷ No. 13 CVS 9352 at p. 13, ¶ 2; No. 13 CVS 4061 at p. 22, ¶ 2.

¹⁸ No. 13 CVS 9352 at ¶ 55; No. 13 CVS 4061 at ¶ 37.

¹⁹ No. 13 CVS 9352 at ¶ 67; No. 13 CVS 4061 at ¶ 103.

The North Carolina Conservation Network further requests a public hearing on the Draft Consent Order in order to allow the public the opportunity to voice their concerns over the proposed settlement and Duke's ongoing violations.

If you have any questions about these comments please contact me at (919) 857-4699 x 107 or nadia@ncconservationnetwork.org.

Sincerely,

A handwritten signature in cursive script that reads "Nadia L. Luhr".

Nadia L. Luhr
Policy Analyst
North Carolina Conservation Network

Palmer, Lisa M

From: Chuck Myers [medeqp@gmail.com]
Sent: Wednesday, August 14, 2013 12:17 PM
To: Palmer, Lisa M; Chuck Myers
Subject: Catawba Cove keeper - Mountain Island Lake, NC - Duke RiverBend Steam Plant

08/14/2013

Lisa,

It concerns be to hear and see that Duke power is shutting down the Riverbend location on Mt. Island Lake. Without being responsible servants on the land and associated lake, for the clean up from the aftermath of many years of managing the plant and the lake just below the minimum risk levels set by the state. Duke Power has been a good neighbor throughout the many years of operation. However they as a responsible corporation in the state of NC, should be held responsible for the existing conditions that have been allow by law or other entities to collect and contaminate the lake. If I (NC Citizen) were to contaminate the lake I am sure I would be held liable, arrested and or heavily fined and still held financially responsible for the clean up.

Duke should assume the full responsibility of cleaning up all of the grounds associated with the many years of operation. This would include removal of all structures, bricks and motor. As well as cleaning up the leaching seeping coal ash ponds that have been accumulating high metal content and PCB's over the years . Currently which without a sealed bottom to the ponds have been allowed to leach and seep into the lake. Not taking into account that the ponds are above the surface level of the lake and if allowed to deteriorate the dirt dam walls will continue to seep and breakdown into a major issue that would shut down the lake for any water usage for many years, including closing down Charlotte and local water municipalities.

Please note:

1. Capping the ponds will not stop the leaching and seeps for many many years to come
2. Removing the ash down to ground level would work

3. Removing the ash down to ground level and placing a double liner and putting the ash back in the lined pond then capping would also work.
4. Doing nothing but paying a minimal fine one time is not a solution
5. Doing nothing is not a good solution

Boy Scouts are thought to leave no trace take out what you take in plus what ever else you can find on the way out.

I have no easy out solution. DENR and duke Power must come to a well thought out plan and clean up this mess. Fines and waiting to accomplish additional studies only pushes up the risk factor 100 fold.

I live on the lake and work with one of the largest healthcare organizations in NC. This is not good business ethics and will over time only increase the cost of health care in NC. The law suite can be avoided if Duke Power would step up to the plate and make this right. It is the right thing to do.

Lisa please support an acceptable outcome from Duke Power or continue with the suite in all haste.

I would be happy to address all of my concern in a forum or by phone call / email.

Regards,

Chuck Myers

Palmer, Lisa M

From: Tara Goulet [tara@birdsongbrewing.com]
Sent: Monday, August 12, 2013 9:49 PM
To: Palmer, Lisa M
Subject: Duke-DENR settlement

Lisa,

What's the point of western civilization without clean drinking water?

As shareholders of Duke Energy and as citizens of Mecklenburg county, we expect you to stop Duke from pouring contaminated water into the Lake and the groundwater that will eventually reach the Lake.

In addition, our business relies on clean water. We produce craft beer for Charlotte residents using Charlotte city water (unfiltered, because we believe that Charlotte has great drinking water), malt, yeast and hops. At Birdsong, we have more than 3,000 loyal customers who take great pride in supporting our hand-crafted, locally produced product.

What action do you propose to take?

Eagerly awiting your response,

Christopher Goulet and Tara Switter Goulet

Principles, Birdsong Brewing Co. and Charlotte residents

2237 McClintock Rd

Charlotte, NC 28205

--

Tara Goulet
Birdsong Brewing Co.
Charlotte, North Carolina
www.BirdsongBrewing.com
tara@birdsongbrewing.com
office: 704-332-1810
mobile: 336-577-2232

Palmer, Lisa M

From: Maggie Ullman [MULLman@ashevillenc.gov]
Sent: Wednesday, August 14, 2013 4:51 PM
To: Palmer, Lisa M
Cc: Julie Mayfield; Kelly Martin
Subject: Fwd: Coal Ash Resolution
Attachments: 20130814153127166.pdf; ATT00001.htm

Lisa, please see the attached public comment from the City of Asheville.

Thanks,
Maggie Ullman
Chief Sustainability Officer
City of Asheville

PS- Please excuse brevity and typos, sent from my iPhone

Begin forwarded message:

From: Tom Downing <TDowning@ashevillenc.gov>
Date: August 14, 2013, 3:48:40 PM EDT
To: Maggie Ullman <MULLman@ashevillenc.gov>
Subject: FW: Coal Ash Resolution

Maggie,

Please find the coal ash resolution attached.

Thanks,

Tom Downing
City Manager's Office & Mayor's Office
Administrative Assistant
City of Asheville, North Carolina
828-259-5604 City Manager's Office
828-259-5600 Mayor's Office

70 Court Plaza
PO Box 7148
Asheville, North Carolina 28802
TDowning@ashevillenc.gov

II Think Green! Please do not print this e-mail unless necessary
The Asheville Way: Continuous Improvement, Integrity, Diversity, Safety and Welfare, and
Excellent Service

-----Original Message-----

From: no-reply_General-Admin@ashevillenc.gov [mailto:no-reply_General-Admin@ashevillenc.gov]

Sent: Wednesday, August 14, 2013 3:31 PM

To: Tom Downing

Subject:

This E-mail was sent from "RNP18B906" (Aficio MP C4000).

Scan Date: 08.14.2013 15:31:27 (-0400)

Queries to: no-reply_General-Admin@ashevillenc.gov

RESOLUTION NO. _____

RESOLUTION ENCOURAGING DENR AND DUKE ENERGY PROGRESS TO TAKE EXPEDIENT AND APPROPRIATE ACTION TO DEAL WITH THE IMPACT OF COAL ASH LEACHATE AT THE DUKE ENERGY FACILITY

WHEREAS, a draft Consent Order has been negotiated with Duke Energy Progress by the Department of Environment and Natural Resources (DENR) concerning pollution of the French Broad River and its watershed caused by coal ash lagoons at the company's Asheville, NC facility; and

WHEREAS, the City of Asheville depend on the French Broad River and the groundwater in its watershed as critical assets supporting our economy and our quality of life; and

WHEREAS, DENR is accepting comments regarding the draft consent order between Duke Energy Progress and DENR; and

WHEREAS, the City is grateful for DENR's commitment to enforcing North Carolina law to protect these values by initiating an enforcement action against Duke Energy Progress. Any ongoing contamination of the French Broad and the groundwater that flows into it from any source is of paramount concern to our City; and

WHEREAS, the City recognizes the importance and value of continued monitoring and information gathering, but concerned that the draft consent order sets no deadline for completion of the requested studies; and

WHEREAS, the City request that DENR continue to enforce the laws of North Carolina, so as to require a prompt solution to address any contamination deemed to be coming from Duke Energy's coal ash lagoons in Asheville; and

WHEREAS, the City recognizes the vital nature of the Asheville Plant in ensuring reliable electricity for the region, the City of Asheville calls on Duke Energy Progress to find a permanent solution that provides the best possible protection from the coal ash lagoons along the banks of the French Broad River.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

This Resolution be entered into the record of the DENR public comment record and considered in the negotiations of the final consent order.

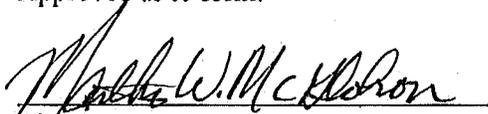
This Resolution is effective upon adoption.

Read, approved and adopted this 13th day of August, 2013


Deputy City Clerk


Mayor

Approved as to form:


City Attorney