
From: "Willis, Linda" <linda.willis@ncdenr.gov>

Date: Wednesday, January 26, 2011 8:59 AM

To: "Matthews, Matt" <matt.matthews@ncdenr.gov>, "Bennett, Bradley" <bradley.bennett@ncdenr.gov>, "Scott, Georgette" <georgette.scott@ncdenr.gov>, "Lewis, Linda" <linda.lewis@ncdenr.gov>, Jeff Poupart <jeff.poupart@ncdenr.gov>

Subject: FW: PE Cooling Pond and SA regs

From: Cooper, Kathy [mailto:kcooper@ncdoj.gov]

Sent: Tuesday, January 25, 2011 5:24 PM

To: Willis, Linda

Cc: Shiver, Rick

Subject: RE: PE Cooling Pond and SA regs

Linda,

Based on my review of the statute and rules, I think a cooling pond as you described Sutton Lake is waters of the State. However, if other sections within DWQ don't consider it to be waters of the State, we need to know why before I give you a definitive opinion since there may be a policy reason why DWQ has not historically considered cooling ponds waters of the State.

That's why I asked that you check with Matt since he's over the surface water program.

Kathy

*Kathryn Jones Cooper
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From: Willis, Linda [mailto:linda.willis@ncdenr.gov]

Sent: Tuesday, January 25, 2011 4:28 PM

To: Cooper, Kathy

Subject: RE: PE Cooling Pond and SA regs

Kathy,

This is going to be a very contentious issue. Rick has advised me that Progress Energy is willing to get their lawyers involved to fight any potential classification of Lake Sutton. Regardless of the definition of waters of the State. I don't know that we have a policy on why we (DWQ) never classified the Lake properly back in 1971, when the easement agreement was given, maybe because that was before the EPA required us to classify our surface waters. When we could have, I'm not sure why we didn't. Rick tells me if it isn't classified already, we probably wouldn't fight for it to be classified. Matt has not been involved yet because all we were trying to do was answer the question for State Stormwater Unit here in Wilmington, was Sutton Lake waters of the State or not. I thought we had the answer after visiting with you on Friday. Sergei then told me that he did not permit the discharges to Lake Sutton based on the Lake being waters of the State. PE did not like the answer because they will have to treat their stormwater for their new plant before discharging to Sutton Lake and they are opposed to having to provide any treatment whatsoever.

Linda

From: Cooper, Kathy [<mailto:kcooper@ncdoj.gov>]
Sent: Monday, January 24, 2011 4:39 PM
To: Willis, Linda
Subject: RE: PE Cooling Pond and SA regs

Linda,

Have you also spoken to Matt Matthews or others higher up DWQ about these issues and the division's policy?

Kathy

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From: Willis, Linda [<mailto:linda.willis@ncdenr.gov>]
Sent: Monday, January 24, 2011 4:09 PM
To: Cooper, Kathy
Subject: PE Cooling Pond and SA regs

Kathy,

Would it be possible to email me a brief synopsis on the status of the cooling pond (Sutton Lake) based on your review of the definition and PE's easement agreement? Sergei and I had spoke concerning how he permitted discharges to the Cooling Pond, he rechecked the permit limitations and found he had not considered the cooling pond "waters of the State". We (DWQ) have discovered recently that the PNA waters in our region have not been appropriately classified as "HQW" as required in our 2B regs. As a result, many of our NPDES permits allowing discharges to portions of the Cape Fear River do not reflect the appropriate limits where TSS is concerned, unless they have the technology in place now to meet a tighter limit. The permitting unit has decided that they will not reopen nor change any permits to impose the appropriate limits unless the permittee requests an expansion. We will, however, correct the permits to reflect the appropriate classification of "PNA/HQW", even though we don't impose the more stringent limitations. I don't see why this same approach would not be exercised in this case too.

If you could comment also, briefly, on your take of the wq Standard specified in the SA regs "no settleable solids, floating solids or sludge deposits", that would be quite helpful for me to have in hand for some upcoming meetings with the Washington Regional office.

Thanks again for your help Kathy.

Linda