



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

November 5, 2014

CERTIFIED MAIL 7002 0860 0006 5836 0335
RETURN RECEIPT REQUESTED

Harry Sideris
Senior Vice President, Environmental, Health, and Safety
Duke Energy
526 S Church St-EC11J
Charlotte, NC 28202

Subject: Classification of Sutton Lake as Waters of the State
Duke Energy – Sutton Steam Electric Plant NC0001422 New Hanover County

Dear Mr. Sideris,

The Division is hereby informing you that Sutton Lake will now be considered “waters” of the State as defined in North Carolina General Statute §143-212(6). Your current permit, which was issued December of 2011, did not identify Sutton Lake as a “waters” of the State and therefore the discharge point listed on your permit, and associated monitoring, was the outfall to the Cape Fear River rather than to Sutton Lake. Consequently, this determination will require a revision to your NPDES Permit for the Sutton Steam Electric Plant (NC0001422).

I recognize that this determination is a departure from prior determinations made by DENR. As noted above, your NPDES permit for this facility was renewed in December of 2011. It is clear from the record of that decision that DENR considered the question of whether Sutton Lake should be considered as “waters” of the State. I have enclosed correspondence dated January 24-26, 2011, in which the decision was discussed. After concluding in 2011 that Sutton Lake was not “waters” of the State, a draft permit was sent to the federal Environmental Protection Agency (EPA) for their review and the same draft permit was also made available for public review and comment. No public comments were received. EPA did review and provide comments but did not comment on the decision to identify the discharge points to be limited to the outfall into the Cape Fear River. Hence, DENR recognizes that this decisional process is critical in qualifying your facility for permit shield protection under Section 402(k) of the Clean Water Act.

DENR understands that this decision, because it is a departure from prior DENR determinations, necessitates a revision to your wastewater NPDES permit as well as other permits and authorizations related to this facility. You are hereby given your 60-day notice of this requirement pursuant to North Carolina Administrative Code (NCAC) 15A 2H .0112(b)(3).

If you have any questions please do not hesitate to contact me at (919) 707-9027, or via e-mail at tom.reeder@ncdenr.gov.

Sincerely,

Thomas A. Reeder
Director, Division of Water Resources

cc: EPA Region IV, Mark Nuhfer
NPDES Permit File
Central Files