

Sam McEwen
Director, Environmental

October 28, 2021

Via Email Delivery

Michael E. Scott
Director
NC Division of Waste Management, NCDEQ
217 West Jones Street
Raleigh, NC 27603

Re: October 19, 2021 Notice of Continuing Violation

Dear Director Scott:

Colonial Pipeline Company (“Colonial”) received the October 19, 2021 Notice of Continuing Violation (“NOCV”) letter, seeking: (1) “updated detailed information regarding predictive calculations for the estimation of the extent of product volume released” at the Huntersville site; (2) “all currently available information relevant to” the estimate of volume released; and (3) information related to the “vertical extent” of groundwater contamination throughout the plume of contamination. Colonial anticipates including item (3) in its revised Comprehensive Site Assessment Report (CSA), which Colonial plans to provide to NCDEQ by October 30, 2021.

With respect to item (1), Colonial currently estimates that the release exceeded 1.2 million gallons of product. Using API’s LDRM methodology, Colonial provided to NCDEQ the estimate of 1.2 million gallons released. See Comprehensive Site Assessment Report dated January 20, 2021. Colonial notified NCDEQ that this estimate would likely need to be adjusted upward. See letter to Michael Scott dated May 28, 2021. Records provided to NCDEQ on Colonial’s ongoing remediation efforts (i.e., the monthly monitoring reports) confirm that the release exceeded 1.2 million gallons. See Monthly Monitoring Report submitted July 30, 2021. As Colonial has previously discussed with NCDEQ staff, it is technically infeasible to provide a reliable calculated estimate of the total release volume without stopping or substantially modifying Colonial’s ongoing remediation efforts at the site for a substantial period of time to collect additional data. Colonial respectfully suggests that requiring Colonial to immediately stop or substantially modify remediation activities would run afoul of NCDEQ’s overarching mission and the purpose of the 2L Rules —“*Providing science-based environmental stewardship for the health and prosperity of ALL North Carolinians*” – as ceasing or modifying current activities could result in the further expansion and migration of contamination. This would also increase the risk of receptor exposure and prolong cleanup efforts.

Other methods of calculating a revised volume estimate, which have broad margins of error associated with them, are unlikely to produce reliable results. Colonial believes that developing unreliable estimates would be counterproductive, and could misinform others. By contrast, as NCDEQ knows, Colonial’s

remediation efforts have been, and continue to be, highly productive currently removing more than a thousand gallons of free product per day.

Additionally, contrary to NCDEQ's statements in the NOCV, an estimate of volume of product released is not needed for successful remediation at the site. Such remediation activities are guided by constituent concentrations and the horizontal and vertical extent of the contamination as delineated through groundwater and soil sampling — information that Colonial continues to gather and continues to provide to NCDEQ. *See, e.g.,* 15 NCAC 2L .0106(g). As a result, the risks created by stopping remediation activities to conduct additional rounds of data collection for yet another volume estimate greatly outweigh any minimal benefit that a revised volume estimate would provide, particularly when such an estimate would be inherently variable, and therefore potentially unreliable. As EPA has explained, “[e]ven where substantial data are available and several estimation methods used, volume estimates with an uncertainty of minus 50 percent to plus 100 percent are the best that can be expected.” EPA, *How To Effectively Recover Free Product at Leaking Underground Storage Tank Sites at IV-17* (1996). Colonial strongly prefers to continue its ongoing remediation efforts to ensure cleanup proceeds as quickly as possible to continue to protect human health and the environment for all North Carolinians.

If NCDEQ were to issue an order requiring Colonial to stop or substantially modify its ongoing remediation efforts to obtain the data required for refinement of Colonial's current estimate of over 1.2 million gallons, Colonial believes it would take at least four to six months to complete this task. Given the complex geologic and hydrogeologic conditions at the site, at least 3 months would be needed for the site to stabilize following shutdown of the recovery network and collection of sufficient data; additional time would be needed for validation and analysis. Even then, the resulting estimate would not be precise and would have a significant margin of error. Again, Colonial believes that such a lengthy delay of remediation and removal of free product would not be most protective of public health and the environment. Instead, and in order to provide full transparency, Colonial will continue to report the actual volume of product recovered.

With respect to item (2), Colonial believes it has provided NCDEQ with all of the data it has collected and verified concerning the volume of the release and the ongoing recovery. Although the request for “all currently available information relevant to [the] product volume estimation” is vague, Colonial believes it has already satisfied this request through its prior (and continuing) delivery of data to NCDEQ. Colonial will continue to update NCDEQ with available information through its monthly reports and the forthcoming update to the CSA. If NCDEQ still believes it is missing specific records or data, please let me know.

Although the NOCV did not contain a date certain for Colonial to provide the requested information, we understand NCDEQ is interested in resolving these issues as soon as possible. To that end, Colonial requests the opportunity to discuss these issues with you and your staff at your earliest convenience to

see if an agreement on a path forward can be reached. Colonial believes such a meeting would be more productive than a further exchange of letters.¹

Please feel free to contact me directly at 678-772-8090, or SMcEwen@colpipe.com.

I look forward to hearing from you soon.

Sincerely,

Sam McEwen

¹ Colonial disputes and reserves all rights with respect to NCDEQ's claims that Colonial has been and continues to be in violation of requirements contained in the Notice of Violations dated October 19, 2021; May 5, 2021; February 24, 2021; and September 25, 2020.