

**North Carolina Division of Energy Mineral and Land Resources**  
May 24, 2016

**Memorandum**

**To:** Tracy Davis  
Director

**From:** Stan Aiken *Original Initialed by Stan Aiken*  
Regional Engineer, Land Quality Section, Asheville Regional Office

**Subject:** NPDES Stormwater Permit Hearings – Duke Energy Progress, LLC – Asheville Steam Electric Plant  
Hearing Officers' Report and Recommendations

On February 24, 2016 I served as hearing officer for a public hearing on the proposed issuance of a NPDES stormwater discharge permit for the Duke Energy Progress, LLC facility in Asheville. This hearing was originally scheduled for January 21, 2016 but was rescheduled due to weather conditions. As hearing officer, my main focus was to consider the public comments received during the notice period and any comments given at the public hearing in making a recommendation for final action on the draft permit. The permit considered and information about the hearings is included in the table below.

**Asheville Steam Electric Plant – Permit Number NCS000575:**

This facility is located at 200 CP&L Drive, Arden, N.C. – Buncombe County. The facility currently includes a coal fired power plant, natural gas and oil combustion turbine operations that discharges industrial stormwater to Lake Julian and an Unnamed Tributary to Powell Creek in the French Broad River Basin. The hearing was held on February 24, 2016 at Asheville Buncombe Community College in Asheville, NC.

Excluding Department staff, the only attendees at the public hearing were employees of Duke Energy Progress. There were four Duke Energy employees at the Asheville hearing. One local TV station came to the hearing, but left before the start since no one from the public was in attendance. There were no speakers at public hearing. As hearing officer, I presented the hearing officer's speech at the hearing and gave opportunity for any public comment, but none was offered. During the public comment period we received one written comment letter on the draft permit. This letter was from Clean Water for North Carolina. Division staff have reviewed these comments and made appropriate adjustments to the final permit where warranted. Changes to the final permit were minor in nature.

**Background**

The fact sheet for the permit outlines in more detail the basis for permit coverage and permit requirements for the facility. The facility is a steam electric power generating facility. This industry sector is required to have NPDES permit coverage for stormwater point source discharges from the industrial activities at such facilities. The permit documents note that for a major portion of the industrial plant area and ash handling areas of the site, stormwater is collected and treated in the facility's wastewater treatment system. Those drainage areas are covered in a separate wastewater NPDES permit. For the areas covered by the stormwater permit, the major provisions of the permit are requirements for a Stormwater Pollution Prevention Plan (SWPPP) for the facility, along with monitoring (visual and quantitative) and inspection requirements. These provisions provide comprehensive coverage through the implementation, regular evaluation and adjustment of management measures on each site to minimize the discharge of pollutants during rainfall events.

**SUMMARY OF PUBLIC COMMENTS AND RECOMMENDATIONS**

As indicated above, only one comment letter was received on the draft NPDES stormwater permit. Staff in the Stormwater Permitting Program have reviewed the comments received from Clean Water for North Carolina (CWNC) and have developed responses to their concerns. I concur with the recommended changes in the final permit for this permit.

The changes included are minor in nature, and the final permit maintains requirements that are in line with those taken to public notice. In the process of finalizing the permit, staff have developed transmittal letters for each permit that address the comments and the Division's responses to these comments. The major issues raised in the comments are summarized below.

- CWNC commented on the monitoring frequency and requested that monitoring be required monthly instead of quarterly for priority metals and pH.

Stormwater permits authorize discharges that are not continuous or even frequent events. Rainfall events that lead to stormwater discharge are highly variable and inconsistent throughout the year. Requiring monthly monitoring does not mean that there will be consistent monthly events that produce runoff discharge for sampling. Events that do occur have to meet the criteria in the permit to be representative events and ones that can be reasonably monitored. The Division has reviewed this request and feels that a change to automatically require monthly monitoring is not the most effective tool for this permit. The Division understands the concerns expressed by the commenter and feels that a minor change to the permit requirements can provide additional monitoring data based on initial monitoring results. Initial monitoring will remain at a quarterly frequency, but the permit has been modified to require that one exceedance, rather than two, of a benchmark value will move the permittee forward in the permit's tiered response process that leads to monthly monitoring requirements.

- CWNC noted concerns with mercury monitoring without a benchmark value and requested that the water quality standard of 12 ng/l be applied as the benchmark value.

In the case of mercury a benchmark value such as the water quality standard of 12 ng/l is more likely to be exceeded when regional deposition is potentially driving elevated levels. This would prompt monthly monitoring with little gain for the permittee's pollution prevention efforts. Gathering of additional data is necessary to help determine if permit conditions should be changed. Monitoring results will be considered in conjunction with fish tissue monitoring that is required as part of the plant's wastewater NPDES permit which provide a measure of potential bioaccumulation. Language has been added to the permit to require the submittal of these results to the Division as a part of the stormwater permit also.

- CWNC requested that any changes to monitoring frequencies be handled as official permit modifications with notice instead of through DEMLR review as part of the permit tier response. They also requested that Duke not be allowed to request less frequent monitoring where multiple benchmark exceedances have occurred.

For any facilities monitoring stormwater discharges under NPDES stormwater permits the Division recognizes that benchmark exceedances may be due to a number of conditions and may also be corrected through site changes and installation of management practices. Some parameters, like a number of metals, are ubiquitous in their existence in the environment and may be present even if the site has little to no potential to contribute them or eliminate them. Stormwater permits need to be able to allow for these situations and adjust monitoring accordingly. In accordance with permit regulations at 15A NCAC 2H .0114 modifications to a permit's monitoring program can be made without additional public notice of the permit.

A facility may have parameters that they are able to effectively manage through site cleanup, drainage changes or the use of structural stormwater management measures. Where a facility is able to take actions to minimize or eliminate these pollutants from stormwater discharge there should be opportunities for the permittee to adjust their monitoring requirements, especially where continued increased monitoring will provide little additional information to advance controls. In any situations where this permit would allow monitoring changes, the Division requires that the permittee document and verify the conditions warranting any potential change. The Division would then assess the information to assure that the conditions will continue to provide adequate protection before allowing any proposed changes.

- CWNC requested that the permit add provisions to employee training that required drills on responding to emergency situations and training refreshers a least two times per year.

The Division has reviewed and understands the concerns for assuring proper training needs. It is noted that the provisions of this permit are not the only ones that are applicable to any industrial facility that has materials onsite that could lead to spills and other emergency situations. Various other state, federal and local requirements may be applicable and work together with the requirements in the NPDES stormwater permit to provide training and protection needed in these applications. The Division will continue to monitor application of these provisions and could, in the future, require additional measures. No changes have been made in the final permit in this area.

In addition to the items noted above I would also note that in review of the permit and comments staff also noted a few needed changes in the permit to provide clarifications, address areas where language needed to be clarified and to make the permit requirements consistent with current permit language for other facilities. These changes include placing footnote language in Table 1 to clarify requirements (this language is consistent with regular language from other permits), and addressing sampling outside of normal working hours.

Based on our review of the information associated with these permits, public comments received and discussions with stormwater permitting staff, I recommend that the Director move forward to issue the final permits with the minor modifications that have been included. Final permits are attached to this package for your signature.

If you have any questions, please contact me to discuss.

## ATTACHMENTS

- A. Announcement of Public Hearings
- B. Comments Received on Stormwater Permit

## **Attachment A: Announcement of Public Hearing**

*Note: The Asheville Steam Station public hearing was originally scheduled for January 21, 2016. A winter storm caused the hearing to be rescheduled for February 24, 2016. Only the February notice is included here to avoid confusion.*

**PUBLIC NOTICE**  
N.C. DEPARTMENT OF ENVIRONMENTAL QUALITY  
INTENT TO ISSUE NPDES STORMWATER DISCHARGE PERMIT #NCS000575

Public comment or objection to the draft permit is invited. All comments received by Feb. 24, 2016 will be considered in the final determination regarding permit issuance and permit provisions.

**PERMIT APPLICATION**

Duke Energy Carolinas LLC, P.O. Box 1006, Charlotte, N.C., has applied for a NPDES stormwater permit to discharge stormwater from the Asheville Steam Electric Plant, 200 CP&L Dr., Arden, N.C., Buncombe County. The facility discharges to Lake Julian and an unnamed tributary to Powell Creek in the French Broad River basin.

The draft stormwater permit and related documents are available online at:

<http://portal.ncdenr.org/web/guest/duke-npdes-permits>. A printed copy of the draft permit and related documents may be reviewed at the department's Asheville Regional Office. To make an appointment to review the documents, please call 828-296-4500.

Public comment on the draft stormwater permit should be mailed to: Stormwater Permitting, 1612 Mail Service Center, Raleigh, N.C., 27699-1612.

Public comments may also be submitted via email to: [publiccomments@ncdenr.gov](mailto:publiccomments@ncdenr.gov). Please be sure to include "Asheville Stormwater" in the email's subject line when submitting comments electronically.

**PUBLIC HEARING**

The N.C. Department of Environmental Quality will hold a public hearing to accept comments on the draft permit at 6 p.m. Wed., Feb. 24, 2016 at Asheville-Buncombe Community College's Ferguson Auditorium, 340 Victoria Rd., Asheville, N.C.

**Attachment B: Comments Received on Stormwater Permit**



## Clean Water for North Carolina

29 ½ Page Avenue  
Asheville, NC 28801  
[info@cwfncc.org](mailto:info@cwfncc.org)

Mike Randall, Permit Writer, Stormwater Permitting  
1612 Mail Service Center  
Raleigh, N.C., 27699-1612  
[publiccomments@ncdenr.gov](mailto:publiccomments@ncdenr.gov)

January 22, 2016

Dear Mr. Randall,

Please accept this document as the official comments of Clean Water for NC regarding draft Permit # No. NCS000575 for the Asheville Steam Electric Plant. Clean Water for NC is an environmental justice nonprofit organization with members statewide who care about the state's water resources, including approximately 150 members in Buncombe County.

We have the following specific requests for modification of the draft permit:

- **Monitoring of “priority pollutant metals” at the industrial outfalls should be done at least monthly**, not quarterly, while coal ash is transported through this drainage area. This includes Silver, Arsenic, Beryllium, Cadmium, Chromium, Copper, Mercury, Nickel, Lead, Antimony, Selenium, Thallium, Zinc, and Boron.
- **pH should also be monitored monthly** while coal ash is moving through the area.
- DEQ should not remove the benchmark for Mercury from Duke's permit simply because testing is more expensive. **Mercury levels above the North Carolina water quality standard for mercury (12 ng/l) should trigger a tiered response.**
- Duke Energy should not be able to request less frequent monitoring at outfalls where there have been multiple exceedances of permit benchmarks. **Changes to the monitoring scheme for any outfall should be handled via an official permit modification with an opportunity for public comment.**
- Training required for employees responsible for spill response and cleanup, preventative maintenance activities, and for any of the facility's operations that have the potential to contaminate stormwater runoff is insufficient. **The permit should require periodic drills on responding to emergency situations, and training refreshers at least twice a year.**

Thank you for this opportunity to submit comments. Respectfully,

Katie Hicks, Associate Director