



PAT MCCRORY

Governor

DONALD R. VAN DER VAART

Secretary

S. JAY ZIMMERMAN

Director

September 22, 2016

DWR # 15-0998
New Hanover County

Duke Energy Progress
Attn: Mr. Stephen Cahoon
249 Sutton Lake Road
Wilmington, NC 28403

Subject: Approval of Individual Isolated and Other Non-404 Jurisdictional Wetlands and Waters Permit with Additional Conditions
L. V. Sutton Steam Station – On-site Landfill

Dear Mr. Cahoon:

Attached hereto is a copy of Permit No. IWP000004 issued to Duke Energy Progress, dated September 22, 2016. Please note that you should get any other federal, state or local permits before proceeding with the subject project, including those required by (but not limited to) Sediment and Erosion Control, Non-Discharge, and Water Supply Watershed regulations.

This approval and its conditions are final and binding unless contested. This Permit can be contested as provided in Articles 3 and 4 of General Statute 150B by filing a written petition for an administrative hearing to the Office of Administrative Hearings (hereby known as OAH) **within thirty (30) calendar days**.

A petition form may be obtained from the OAH at <http://www.ncoah.com/> or by calling the OAH Clerk's Office at (919) 431-3000 for information. A petition is considered filed when the original and one (1) copy along with any applicable OAH filing fee is received in the OAH during normal office hours (Monday through Friday between 8:00am and 5:00pm, excluding official state holidays).

The petition may be faxed to the OAH at (919) 431-3100, provided the original and one copy of the petition along with any applicable OAH filing fee is received by the OAH within five (5) business days following the faxed transmission.

Mailing address for the OAH:

If sending via US Postal Service:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

If sending via delivery service (UPS, FedEx, etc):

Office of Administrative Hearings
1711 New Hope Church Road
Raleigh, NC 27609-6285

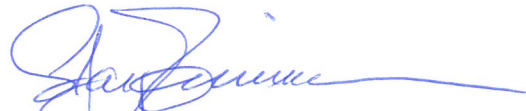
One (1) copy of the petition must also be served to DEQ:

Sam M. Hayes, General Counsel
Department of Environmental Quality
1601 Mail Service Center
Raleigh, NC 27699-1601

Unless such a petition is filed, this Permit shall be final and binding.

This permit completes the review of the Division under Title 15A NCAC 02H .1300. Contact Chad Coburn at 910-796-7379 or chad.coburn@ncdenr.gov or Jennifer Burdette at 919-807-6364 or jennifer.burdette@ncdenr.gov if you have any questions or concerns.

Sincerely,



S. Jay Zimmerman, P.G.
Director, Division of Water Resources

cc: Ed Mussler, PE, DWM Permitting Supervisor
DWR WiRO 401 file
DWR 401 & Buffer Permitting Branch file

**NORTH CAROLINA ISOLATED AND OTHER NON-404 JURISDICTIONAL
WETLANDS AND WATERS PERMIT**

Permit #IWP000004 is issued in conformity with the requirements of Public Laws 92-500 and 95-217 of the United States and subject to North Carolina’s Regulations in 15 NCAC 02H .1300, to Duke Energy Progress, who have authorization for the impacts listed below, as described within your application received by the N.C. Division of Water Resources (Division) on December 22, 2015 and subsequent information on January 28, 2016 and September 21, 2016, and by Public Hearing conducted by the Division and N. C. Division of Waste Management on March 15, 2016.

The State of North Carolina certifies that this activity will not violate the applicable portions of Sections 301, 302, 303, 306, 307 of the Public Laws 92-500 and PL 95-217 if conducted in accordance with the application, the supporting documentation, and conditions hereinafter set forth.

This approval requires you to follow the conditions listed in the permit below.

Conditions of Permit:

1. Impacts Approved

The following impacts are hereby approved provided that all of the other specific and general conditions of the Permit are met. No other impacts are approved, including incidental impacts. [15A NCAC 02H .1305(d)]

Type of Impact	Amount Approved (units)	Amount Approved (units)
	Permanent	Temporary
Isolated Wetlands	6.57 (acre)	0 (acre)

2. Compensatory Mitigation

Mitigation must be provided for the proposed impacts as specified in the table below. The Division has received an acceptance letter from the Lower Cape Fear Mitigation Bank to meet this mitigation requirement. Until the Lower Cape Fear Mitigation Bank receives and clears your payment, and proof of payment has been provided to this Office, no impacts specified in this Permit shall occur. For accounting purposes, this Permit authorizes payment to the Lower Cape Fear Mitigation Bank to meet the following compensatory mitigation requirement [15A NCAC 02H .1305 (d)(6)]:

	Compensatory Mitigation Required	River and Sub-basin Number
Isolated Wetlands	5.57 (acre)	Cape Fear/ 03030005

3. Future Ash Basin and Lay of Land Area Excavation

If future ash basin and lay of land area excavation and closures involve impacts to additional isolated and/or Section 404 jurisdictional wetlands or waters, a modification of this permit and/or application for a Section 404 permit must be obtained.

4. Solid Waste Permit

Full compliance with Solid Waste Permit 6512-INDUS-2016, issued by the Division of Waste Management (DWM), is required. The Division shall be copied on any request for modification to the Solid Waste Permit. [15A NCAC 02H .1305(d)(2)]

5. NPDES Permit

Full compliance with NPDES Permit NC0001422, issued by DWR, is required. The Division shall be copied on any request for modification to the NPDES Permit. [15A NCAC 02H .1305(d)(5)]

6. No waste, spoil, solids, or fill of any kind shall occur in wetlands, waters, or riparian areas beyond the footprint of the impacts depicted in the Pre-Construction Notification for this project. All construction activities, including the design, installation, operation, and maintenance of sediment and erosion control Best Management Practices shall be performed so that no violations of state water quality standards, statutes, or rules occur. Approved plans and specifications for this project are incorporated by reference and are enforceable parts of this permit. [15A NCAC 02H .1301 and .1302]

7. Sediment and Erosion Control

Erosion and sediment control practices must be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices. If applicable, the project must comply with the specific conditions and requirements of the NPDES Construction Stormwater Permit issued to the site and the following requirements [15A NCAC 02H .1305(d)(3)]:

- a. Design, installation, operation, and maintenance of the sediment and erosion control measures must be such that they equal or exceed the requirements specified in the most recent version of the *North Carolina Sediment and Erosion Control Manual*. The devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) projects, including contractor-owned or leased borrow pits associated with the project.
- b. For borrow pit sites, the erosion and sediment control measures must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Surface Mining Manual*.
- c. Reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act and the Mining Act of 1971.
- d. Sufficient materials required for stabilization and/or repair of erosion control measures and stormwater routing and treatment shall be on site at all times.

13. This Permit does not relieve the applicant of the responsibility to obtain all other required Federal, State, or Local approvals.

14. Continuing Compliance

Duke Energy Progress shall conduct construction activities in a manner consistent with State water quality standards (including any requirements resulting from compliance with section 303(d) of the Clean Water Act) and any other appropriate requirements of State and Federal law. [15A NCAC 02B .0200] If the Division determines that such standards or laws are not being met (including the failure to sustain a designated or achieved use) or that State or federal law is being violated, or that further conditions are necessary to assure compliance, the Division may reevaluate and modify this Permit. Before modifying the Permit, the Division shall notify Duke Energy Progress, provide public notice in accordance with 15A NCAC 02H.1303 and Coal Ash Management Act of 2014 (CAMA 2014), and provide opportunity for public hearing in accordance with 15A NCAC 02H.1303 and CAMA 2014. Any new or revised conditions shall be provided to Duke Energy Progress in writing. [15A NCAC 02H .1304(c)(2)]

15. This approval is for the purpose and design described in your application and as described in the Public Notice. The plans and specifications for this project are incorporated by reference and are an enforceable part of the Permit. If you change your project, you must notify the Division and you may be required to submit a new application package with the appropriate fee. If the property is sold, the new owner must be given a copy of this Permit and is responsible for complying with all conditions. Any new owner must notify the Division and request the Permit be issued in their name. [15A NCAC 02H .1301 and .1302]

16. The applicant and/or authorized agent shall provide a completed Certificate of Completion Form to the Division 401 & Buffer Permitting Branch within ten days of project completion (available at: <http://portal.ncdenr.org/web/wq/swp/ws/401/certsandpermits/apply/forms>). [15A NCAC 02H .1302(f)]

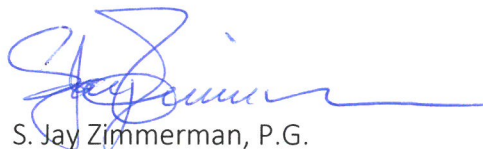
17. This permit grants permission to the director, an authorized representative of the Director, or DEQ staff, upon the presentation of proper credentials, to enter the property during normal business hours. [15A NCAC 02H .1302(e)]

This approval to proceed with your proposed impacts or to conduct impacts to waters as depicted in your application shall expire 5 years from the date of this permit. The conditions in effect on the date of issuance shall remain in effect for the life of the project, regardless of the expiration date of this Permit. [15A NCAC 02H .1304(c)(2) and 15A NCAC 02H .1305]

- e. The sediment and erosion control designs must comply with the requirements set forth in 15A NCAC 04B .0124 *Design Standards in Sensitive Watersheds*.
8. Sediment and erosion control measures shall not be placed in wetlands or waters. Exceptions to this condition require application submittal to and written approval by the Division. If placement of sediment and erosion control devices in wetlands and waters is unavoidable, then design and placement of temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands, stream beds, or banks, adjacent to or upstream and downstream of the above structures. All sediment and erosion control devices shall be removed and the natural grade restored within two (2) months of the date that the Division of Energy, Mineral and Land Resources (DEMLR) or locally delegated program has released the specific area within the project. [15A NCAC 02H .1301 and .1302]
9. Construction Stormwater Permit NCG010000
An NPDES Construction Stormwater Permit is required for construction projects that disturb one (1) or more acres of land. This Permit allows stormwater to be discharged during land disturbing construction activities as stipulated in the conditions of the permit. If your project is covered by this permit, full compliance with permit conditions including the erosion & sedimentation control plan, inspections and maintenance, self-monitoring, record keeping and reporting requirements is required. A copy of the general permit (NCG010000), inspection log sheets, and other information may be found at:
<http://portal.ncdenr.org/web/wq/ws/su/npdessw#tab-w>. 15A NCAC 02H .1305(d)(5)]
10. Work in the Dry
All work in or adjacent to stream waters shall be conducted so that the flowing stream does not come in contact with the disturbed area. Approved best management practices from the most current version of the NC Sediment and Erosion Control Manual, or the NC DOT Construction and Maintenance Activities Manual, such as sandbags, rock berms, cofferdams, and other diversion structures shall be used to minimize excavation in flowing water. [15A NCAC 02H .1305(d)(3)]
11. If concrete is used during the construction, then all necessary measures shall be taken to prevent direct contact between uncured or curing concrete and waters of the state. Water that inadvertently contacts uncured concrete shall not be discharged to waters of the state due to the potential for elevated pH and possible aquatic life/fish kills. [15A NCAC 02B .0200]
12. A one-time application of fertilizer to re-establish vegetation is allowed in disturbed areas including riparian buffers, but is restricted to no closer than 10 feet from top of bank of streams. Any fertilizer application must comply with all other Federal, State and Local regulations. [15A NCAC 02B .0200]

Non-compliance with or violation of the conditions herein set forth may result in revocation of this Permit and may also result in criminal and/or civil penalties.

This the 22nd day of September 2016



S. Jay Zimmerman, P.G.
Director, Division of Water Resources

SJZ/jab

IWP000004

