



North Carolina Department of Environment and Natural Resources

Division of Water Resources

Water Quality Programs

Thomas A. Reeder

Director

Pat McCrory
Governor

John E. Skvarla, III
Secretary

February 28, 2014

CERTIFIED MAIL 7009 1680 0002 2464 9976
RETURN RECEIPT REQUESTED

John Velte, Environmental Manager
Duke Energy
EC 13K
526 South Church St. South Tryon Street
Charlotte, NC 28202

Subject: Notice of Violation and Recommendation for Enforcement
Violations of NCGS 143-215.1, 15A NCAC 2B .0211
& NPDES Permit NC0003468
NOV-2014-DV-0051
Duke Energy – Dan River Steam Station
Rockingham County

Dear Mr. Velte:

This letter transmits a notice of violation and recommendation of assessment of civil penalties against Duke Energy for violations noted during investigation of the release of material from the ash pond at the Dan River Steam Station.

On February 2, 2014, a 48 inch, corrugated steel and concrete stormwater pipe running underneath a coal ash pond at Duke Energy's Dan River Steam Station ruptured, creating a conveyance for the discharge of an estimated 24 - 27 million gallons of wastewater and 30 - 39 thousand tons of coal combustion residuals from the ash pond to the Dan River, class C waters of the State. The discharge created turbid conditions and led to deposition of coal combustion residuals of varying depths within the river as far as 70 miles downstream of the steam station.

Investigations conducted to date indicate Duke Energy has violated water quality statutes, rules, and permit conditions in association with its management of the coal ash pond and the discharge of a portion of its contents to the Dan River. Violations identified to date include:

- Making outlets to waters of the State without a permit via the 48 inch stormwater pipe and via a separate, 36 inch, concrete stormwater pipe, also running underneath the coal ash pond, that received infiltration of wastewater (NCGS 143-215.1(a)(1));

Mr. John Velte
Duke Energy February 28, 2014 NORE
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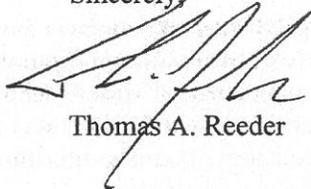
- Failure to operate and maintain the ash pond such that any discharge from it was controlled and conveyed to the river in the manner compliant with the terms of the NPDES permit (Part II, Section C. 2. of NPDES permit);
- Failure to utilize or dispose solids removed from the treatment process in such a manner as to prevent pollutants from entering waters of the State (Part II, Section C. 6. of NPDES permit);
- Failure to take all reasonable steps to prevent any discharge in violation of the permit with the reasonable likelihood of affecting human health or the environment (Part II, Section B. 2. of NPDES permit);
- Violations of both the narrative and analytical water quality standards for class C waters (15A NCAC 2B .0211).

This letter is to advise you that DWR is considering the issuance of civil penalties to address these violations. If you have any explanation or mitigating information that you would wish to present that may be considered during the determination of any civil penalty assessment, you are requested to present such materials to DWR within fifteen (15) days of your receipt of this letter. Please send your response to my attention at the letterhead address.

Please also be advised that because investigations of the incident and its associated impacts are continuing, the listing of violations as depicted in the letter may not be inclusive. Nothing in this letter shall preclude the Division from taking additional enforcement action for additional and/or more specific violations associated with this event as they become known. Such violations may be addressed in future notices of violation and/or other enforcement actions.

Thank you for your attention to this matter. If you have any questions about this letter, please contact Jeff Poupart at (919) 807-6309, or via e-mail at jeff.poupart@ncdenr.gov.

Sincerely,



Thomas A. Reeder

cc: Allen Stowe, Duke Energy
EPA Region IV, Stacey Bouma
NPDES Enforcement File
Winston-Salem Regional Office
Central Files



March 13, 2014

Thomas A. Reeder, Director
Division of Water Resources
North Carolina Department of Environment and Natural Resources
1617 Mail Service Center
Raleigh, NC 27699-1617

Subject: Response to NOV – 2014 – DV – 0051
Duke Energy Carolinas, LLC – Dan River Steam Station
Rockingham County

Dear Mr. Reeder:

This letter responds to your letter to John Velte of February 28, 2014 transmitting a notice of violation and recommendation of assessment of civil penalties with respect to the rupture of a 48" corrugated metal pipe running beneath the primary ash retention basin at the Dan River Steam Station on February 2 which allowed the release of approximately 30,000 to 39,000 tons of ash and 24 million to 27 million gallons of water into the Dan River. You advised that the Department of Environment and Natural Resources (DENR) has determined that this release and subsequently identified conditions resulted in violations of water quality statutes, rules and permit conditions.

You have indicated the Division of Water Resources is considering the issuance of civil penalties with respect to the release and have requested that Duke Energy provide any explanatory or mitigating information that it wishes to have considered in conjunction with a penalty assessment. Following are matters we believe warrant reflection as you consider the imposition and magnitude of a civil penalty:

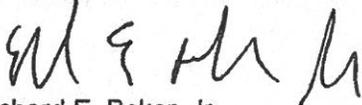
- Duke Energy immediately accepted responsibility for the release and undertook immediate and ongoing actions to address it and provide notice to appropriate governmental authorities.
- Duke Energy mobilized extensive resources to physically address the release and its effects both onsite and offsite including actions to halt the release of materials and the ongoing removal of identified ash material from the river bank and bottom.
- Duke Energy has been working in close cooperation with DENR to identify and address environmental concerns from the release. Duke Energy has, from the inception of the event, communicated with downstream municipal water users regarding the release and has undertaken continuing assessment of the quality of the Dan River.

- The extent of harm does not appear to be significant. Drinking water has remained safe and water quality standards in all locations are at pre-event levels.
- Duke Energy was operating in full compliance with its NPDES permit prior to the release and had been undertaking regular inspections of the ash pond dikes as required. The failure of the pipe was sudden and unintentional.
- Duke Energy believes that it took all reasonable steps to prevent discharges in violation of the NPDES permit.
- The sudden nature of the release notwithstanding, frequent monitoring downstream of the event indicated exceedances which were limited in number, extent and duration (less than 60 hours). Duke Energy is continuing to monitor the river to confirm ongoing conditions.

We appreciate the opportunity to share with you steps taken and plans in place to confirm the return of the Dan River to pre-event conditions. We believe that those steps are both responsible and reflective of our commitment to the community and its inhabitants. It should be noted that the company has undertaken a system wide evaluation of ash basins to confirm structural integrity of the impoundments and associated structures and to characterize and evaluate storm water discharges in the vicinity of the basins. We expect this effort to continue over 6 to 8 months.

If you require any additional information regarding the above, do not hesitate to contact me. My number is: (704) 382-7959.

Sincerely,



Richard E. Baker, Jr.
Director Environmental - Water/Natural Resources