



PAT MCCRORY  
*Governor*

DONALD R. VAN DER VAART  
*Secretary*

November 12, 2015

James Giattina  
NPDES Permitting & Enforcement Branch  
US EPA Region 4  
61 Forsyth Street  
Atlanta, GA 30303-8960

Subject: Final proposed permit for Riverbend facility

Dear Mr. Giattina:

Attached please find the amended proposed permit for the Riverbend facility based on concerns expressed in your Oct. 9, 2015 letter. Pursuant to our 2007 memorandum of agreement, the EPA will within fifteen days notify the state that it has objections to the permit or that it is extending its review time to ninety (90) days. The N.C. Department of Environmental Quality, or DEQ, has continued to seek your approval during this protracted process that is delaying the state's ability to clean up coal ash. We seek to avoid the kind of miscommunications that led to your decanting letter almost a year ago.

In July 2014, DEQ sent the first draft of this permit to you for review. Numerous meetings, conference calls, reviews and requests led to multiple resubmissions as follows:

- In March 2015 DEQ sent a second draft permit to EPA for review based on numerous consultation between staff of the two agencies. Within the updated permit, DEQ included additional data as requested by EPA.
- On May 26, 2015, DEQ sent a third draft permit that incorporated all the recommended technical changes requested by the EPA in its May 11 comment letter. The requested technical changes were primarily dealing with sampling and monitoring protocols and modifications DEQ had added in response to comments received from the public hearing on the Riverbend wastewater permit.
- On September 24, 2015, DEQ sent a fourth draft permit in response to the EPA's June 10 comment letter. This draft added treatment of the seeps, requiring them to either be eliminated, pumped back or proven to meet water quality standards at the point of emergence. These changes were made in response to your concern that some seeps may be waters of the United States at their point of origin. The inclusion of all seeps as discharges is consistent with the 2010 Hanlon memorandum that specifically states, "If seepage is discharged directly via a point source to a water of the U.S., the discharge must be addressed under the NPDES permit for the facility." (Hanlon, 2010, Attachment b). In lieu of written comments, you asked DEQ on Oct. 9 to delay issuance of this version pending an upcoming video conference call.



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We were concerned that other states are being allowed to proceed with decanting of coal ash basins without permit modifications and not requiring inclusion of seeps in subsequent permit revisions. However, you have confirmed that the guidance and comments provided in response to the multiple drafts over the past 15 months are being consistently applied to all NPDES permits covering coal ash operations in other states.

We look forward to your response. If you have any questions about this letter, please contact me at (919) 807-6309, or via e-mail at [jeff.poupart@ncdenr.gov](mailto:jeff.poupart@ncdenr.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeff Poupart", with a long, sweeping horizontal line extending to the right.

Jeff Poupart  
Water Quality Permitting Section Chief

cc: Central Files  
Jay Zimmerman  
Tom Reeder

