

INFORMATION SHEET

PRESIDING: Commissioner Clodfelter, Presiding; Chair Mitchell, Commissioners Brown-Bland, Gray, Clodfelter, Duffley, Hughes, McKissick

PLACE: Held Via Videoconference

DATE: Tuesday, October 6, 2020

TIME: 9:00 a.m. to 9:42 a.m.

DOCKET NOS.: E-2, Sub 1219; E-2, Sub 1193

COMPANY: Duke Energy Progress, LLC

DESCRIPTION: E-2, Sub 1219, In the Matter of Application by Duke Energy Progress, LLC for Adjustment of Rates and Charges Applicable to Electric Utility Service in North Carolina; E-2, Sub 1193, Application of Duke Energy Progress, LLC, for an Accounting Order to Defer Incremental Storm Damage Expenses Incurred as a Result of Hurricanes Florence and Michael and Winter Storm Diego

VOLUME NUMBER: 20

APPEARANCES

(See attached.)

WITNESSES

(See attached.)

EXHIBITS

(See attached.)

-----  
COPIES ORDERED: Downey, Culpepper, Holt, Cummings, Edmondson, Grantmyre, Dodge, Jost, Little, Luhr, Force, Townsend, Robinson, Kells, Mehta, Lee, Cress, Ross, Ledford, Smith, Schauer, Heslin, Su, Crystal and Beverly

**CONFIDENTIAL TRANSCRIPTS and EXHIBITS ORDERED:** Robinson, Heslin, Somers, Kells, Jagannathan, Mehta, Lee, Cress, Ross, Jenkins, Beverly, Ledford, Smith, Crystal, Su, Force, Townsend, Downey, Schauer Culpepper, Cummings, Dodge, Edmondson, Grantmyre, Holt, Jost, Little, Luhr, and Coxton

REPORTED BY: Linda Garrett  
TRANSCRIBED BY: Linda Garrett  
DATE FILED: October 8, 2020

TRANSCRIPT PAGES: 49  
PREFILED PAGES: -0-  
TOTAL PAGES: 49

1 PLACE: Held Via Videoconference  
2 DATE: Tuesday, October 6, 2020  
3 DOCKET NO.: E-2, Sub 1219  
4 E-2, Sub 1193  
5 TIME IN SESSION: 9:00 A.M. TO 9:42 A.M.  
6 BEFORE: Commissioner Daniel G. Clodfelter, Presiding  
7 Chair Charlotte A. Mitchell  
8 Commissioner ToNola D. Brown-Bland  
9 Commissioner Daniel G. Clodfelter  
10 Commissioner Lyons Gray  
11 Commissioner Kimberly W. Duffley  
12 Commissioner Jeffrey A. Hughes  
13 Commissioner Floyd B. McKissick, Jr.

14  
15 IN THE MATTER OF:  
16 DOCKET NO. E-2, SUB 1219  
17 Application by Duke Energy Progress, LLC,  
18 for Adjustment of Rates and Charges Applicable to  
19 Electric Utility Service in North Carolina

20  
21 and  
22  
23  
24

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

DOCKET NO. E-2, SUB 1193  
Application of Duke Energy Progress, LLC,  
for an Accounting Order to Defer Incremental Storm  
Damage Expenses Incurred as a Result of Hurricanes  
Florence and Michael and Winter Storm Diego  
VOLUME 20

1 A P P E A R A N C E S:

2 FOR DUKE ENERGY PROGRESS, LLC:

3 Camal Robinson, Esq., Associate General Counsel

4 Brian Heslin, Esq., Deputy General Counsel

5 Duke Energy Corporation

6 550 South Tryon Street

7 Charlotte, North Carolina 28202

8

9 Lawrence B. Somers, Esq., Deputy General Counsel

10 Duke Energy Corporation

11 410 South Wilmington Street

12 Raleigh, North Carolina 27601

13

14 James H. Jeffries, IV, Esq.

15 McGuireWoods LLP

16 201 North Tryon Street, Suite 3000

17 Charlotte, North Carolina 28202

18

19 Andrea Kells, Esq.

20 McGuireWoods LLP

21 501 Fayetteville Street, Suite 500

22 Raleigh, North Carolina 27601

23

24

1 A P P E A R A N C E S Cont'd:

2 Molly McIntosh Jagannathan, Esq., Partner

3 Kiran H. Mehta, Esq., Partner

4 Troutman Pepper Hamilton Sanders LLP

5 301 South College Street, Suite 3400

6 Charlotte, North Carolina 28202

7

8 Brando F. Marzo, Esq.

9 Troutman Pepper

10 600 Peachtree Street, E, Suite 3000

11 Atlanta, Georgia 30308

12

13 FOR CAROLINA INDUSTRIAL GROUP FOR FAIR UTILITY RATES

14 II AND III:

15 Christina D. Cress, Esq.

16 Bailey & Dixon, LLP

17 Post Office Box 1351

18 Raleigh, North Carolina 27602

19

20 FOR CAROLINA UTILITY CUSTOMERS ASSOCIATION, INC.:

21 Robert F. Page, Esq.

22 Crisp & Page, PLLC

23 4010 Barrett Drive, Suite 205

24 Raleigh, North Carolina 27609

1 A P P E A R A N C E S Cont'd:

2 FOR NC JUSTICE CENTER, NC HOUSING COALITION, NATURAL  
3 RESOURCES DEFENSE COUNCIL and SOUTHERN ALLIANCE FOR CLEAN  
4 ENERGY:

5 Gudrun Thompson, Esq., Senior Attorney

6 David L. Neal, Esq., Senior Attorney

7 Tirrill Moore, Esq., Associate Attorney

8 Southern Environmental Law Center

9 601 West Rosemary Street, Suite 220

10 Chapel Hill, North Carolina 27516

11 FOR SIERRA CLUB:

12 Bridget Lee, Esq.

13 Sierra Club

14 9 Pine Street

15 New York, New York 10005

16

17 Catherine Cralle Jones, Esq.

18 Law Office of F. Bryan Brice, Jr.

19 127 W. Hargett Street

20 Raleigh, North Carolina 27601

21

22

23

24

1 A P P E A R A N C E S Cont'd:

2 FOR NC WARN:

3 Matthew D. Quinn, Esq.

4 Lewis & Roberts PLLC

5 3700 Glenwood Avenue, Suite 410

6 Raleigh, North Carolina 27612

7

8 FOR FAYETTEVILLE PUBLIC WORKS COMMISSION:

9 James West, Esq., General Counsel

10 955 Old Wilmington Road

11 Fayetteville, North Carolina 28301

12

13 FOR UNITED STATES DEPARTMENT OF DEFENSE AND ALL OTHER

14 FEDERAL EXECUTIVE AGENCIES:

15 Emily Medlyn, Esq., General Attorney

16 United States Army Legal Services Agency

17 9275 Gunston Road, Suite 4300 (ELD)

18 Fort Belvoir, Virginia 22060

19

20 FOR VOTE SOLAR:

21 Thadeus B. Culley, Esq., Regulatory Counsel

22 Senior Regional Director

23 1911 Ephesus Church Road

24 Chapel Hill, North Carolina 27517

1 A P P E A R A N C E S Cont'd:

2 FOR NC LEAGUE OF MUNICIPALITIES:

3 Deborah Ross, Esq.

4 Fox Rothschild LLP

5 434 Fayetteville Street, Suite 2800

6 Raleigh, North Carolina 27601

7

8 FOR NORTH CAROLINA SUSTAINABLE ENERGY ASSOCIATION:

9 Peter H. Ledford, Esq., General Counsel

10 Benjamin Smith, Esq., Regulatory Counsel

11 North Carolina Sustainable Energy Association

12 4800 Six Forks Road, Suite 300

13 Raleigh, North Carolina 27609

14

15 FOR THE COMMERCIAL GROUP:

16 Alan R. Jenkins, Esq.

17 Jenkins At Law, LLC

18 2950 Yellowtail Avenue

19 Marathon, Florida 33050

20

21 Brian O. Beverly, Esq.

22 Young Moore and Henderson, P.A.

23 3101 Glenwood Avenue

24 Raleigh, North Carolina 27622

1 A P P E A R A N C E S Cont'd:

2 FOR THE NORTH CAROLINA CLEAN ENERGY BUSINESS ALLIANCE:

3 Karen Kemerait, Esq.

4 Fox Rothschild LLP

5 434 Fayetteville Street, Suite 2800

6 Raleigh, North Carolina 27601

7

8 FOR HARRIS TEETER:

9 Kurt J. Boehm, Esq.

10 Jody Kyler Cohn, Esq.

11 Boehm, Kurtz & Lowry

12 36 East Seventh Street, Suite 1510

13 Cincinnati, Ohio 45202

14

15 Benjamin Royster, Esq.

16 Royster and Royster, PLLC

17 851 Marshall Street

18 Mount Airy, North Carolina 27030

19

20

21

22

23

24

1 A P P E A R A N C E S Cont'd:

2 FOR HORNWOOD, INC.:

3 Janessa Goldstein, Esq.

4 Corporate Counsel

5 Utility Management Services, Inc.

6 6317 Oleander Drive, Suite C

7 Wilmington, North Carolina 28403

8

9 FOR THE USING AND CONSUMING PUBLIC AND ON BEHALF OF  
10 THE STATE AND ITS CITIZENS IN THIS MATTER THAT AFFECTS  
11 THE PUBLIC INTEREST:

12 Margaret A. Force, Esq., Assistant Attorney General

13 Teresa Townsend, Esq., Special Deputy Attorney General

14 North Carolina Department of Justice

15 Post Office Box 629

16 Raleigh, North Carolina 27603

17

18

19

20

21

22

23

24

1 A P P E A R A N C E S Cont'd:  
2 FOR THE USING AND CONSUMING PUBLIC:  
3 Dianna W. Downey, Esq.  
4 Elizabeth D. Culpepper, Esq.  
5 Layla Cummings, Esq.  
6 Lucy E. Edmondson, Esq.  
7 William E. Grantmyre, Esq.  
8 Gina C. Holt, Esq.  
9 Tim R. Dodge, Esq.  
10 Megan Jost, Esq.  
11 John D. Little, Esq.  
12 Nadia L. Luhr, Esq.  
13 Public Staff - North Carolina Utilities Commission  
14 4326 Mail Service Center  
15 Raleigh, North Carolina 27699-4300  
16  
17  
18  
19  
20  
21  
22  
23  
24

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

T A B L E O F C O N T E N T S  
E X A M I N A T I O N S

PAGE

PANEL Cont'd.:

MARCIA E. WILLIAMS, JAMES WELLS

Continued Examination by Commissioner Brown-Bland.....13

Examination by Commissioner Clodfelter.....17

Examination by Mr. Marzo.....19

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

E X H I B I T S

IDENTIFIED/ADMITTED

Williams Rebuttal Exhibits 1-2.....--/33  
Wells Rebuttal Exhibits 1-4.....--/33  
Public Staff Wells/Williams Rebuttal  
Cross Examination Exhibits 1-6.....--/33  
AGO Wells/Williams Rebuttal Cross  
Examination Exhibits 1-2.....--/33  
Williams/Wells Redirect Exhibit 1.....--/33

DIVISION OF ENVIRONMENTAL MANAGEMENT

August 4, 1989

MEMORANDUM

To: Dale Overcash  
Permits and Engineering Unit

Through: Preston Howard  
Regional Supervisor  
Wilmington Regional Office

From: Don Safrit  
Water Quality Regional Supervisor

Subject: Carolina Power and Light Company  
L. V. Sutton Steam Electric Plant  
NPDES Permit No. NC0001422  
New Hanover County

Original Signed By  
A. PRESTON HOWARD, JR

Original Signed By  
DONALD SAFRIT

The Wilmington Regional Office's Groundwater and Water Quality Sections have reviewed the June 23, 1989 response by Dr. George Oliver, Environmental Services Manager for CP&L, concerning the proposed groundwater monitoring provisions for the subject facility.

All of CP&L suggested modifications have been considered and the attached Groundwater Monitoring Program should be included in the draft NPDES Permit. It is further recommended that a draft permit be prepared incorporating this condition and others addressed in the renewal process and the draft permit placed at public notice.

Please call if you have any questions.

APH:DS:trw

Attachment

cc: Rick Shiver  
Perry Nelson

GROUNDWATER <sup>I/A</sup> MONITORING

The permittee shall, within three months of permit issuance, upgrade the existing groundwater monitoring system by installation of four (4) new compliance monitoring wells as shown in Appendix A. The permittee shall operate and maintain Lake Sutton, ash disposal ponds and the make-up water intake system such that the wasters of Lake Sutton and the ash disposal ponds do not exceed total dissolved solids and chlorides concentrations of 500 mg/l and 250 mg/l respectively.

The Director and the permittee agree that maintenance of the above stated total dissolved solids and chlorides concentration in Lake Sutton should result in a reduction in total dissolved solids and chlorides concentrations in groundwaters at the permittee's perimeter of compliance. The new groundwater monitoring wells should enhance the capabilities of the Director and the permittee to evaluate the impact of the above required actions on groundwater quality.

The groundwater monitoring system and sampling requirements contained herein may be altered by a letter of agreement between the permittee and the Division of Environmental Management.

In addition to the monitoring specified in Part I(A), monitoring of Lake Sutton and area groundwaters shall be conducted in accordance with the following requirements: (all samples shall be grab samples)

**Surface Waters Sampling**

(Water column sampling from surface to bottom at one (1) foot intervals for each of the five (5) water sampling locations)

<u>Parameter</u>	<u>Frequency</u>	<u>Monitoring Location</u>
Total Dissolved Solids	Monthly	Intake and Appendix A Locations
Chlorides	Monthly	Intake and Appendix A Locations

**Groundwaters Sampling**

<u>Parameter</u>	<u>Frequency</u>	<u>Monitoring Location</u>
Water Level Elevation	March/July/ November	Appendix A Well Locations
pH	March/July/ November	Appendix A Well Locations
Total Dissolved Solids	March/July/ November	Appendix A Well Locations
Chlorides	March/July/ November	Appendix A Well Locations
Arsenic	March/July/ November	Appendix A Well Locations
Selenium	March/July/ November	Appendix A Well Locations
Iron	March/July/ November	Appendix A Well Locations

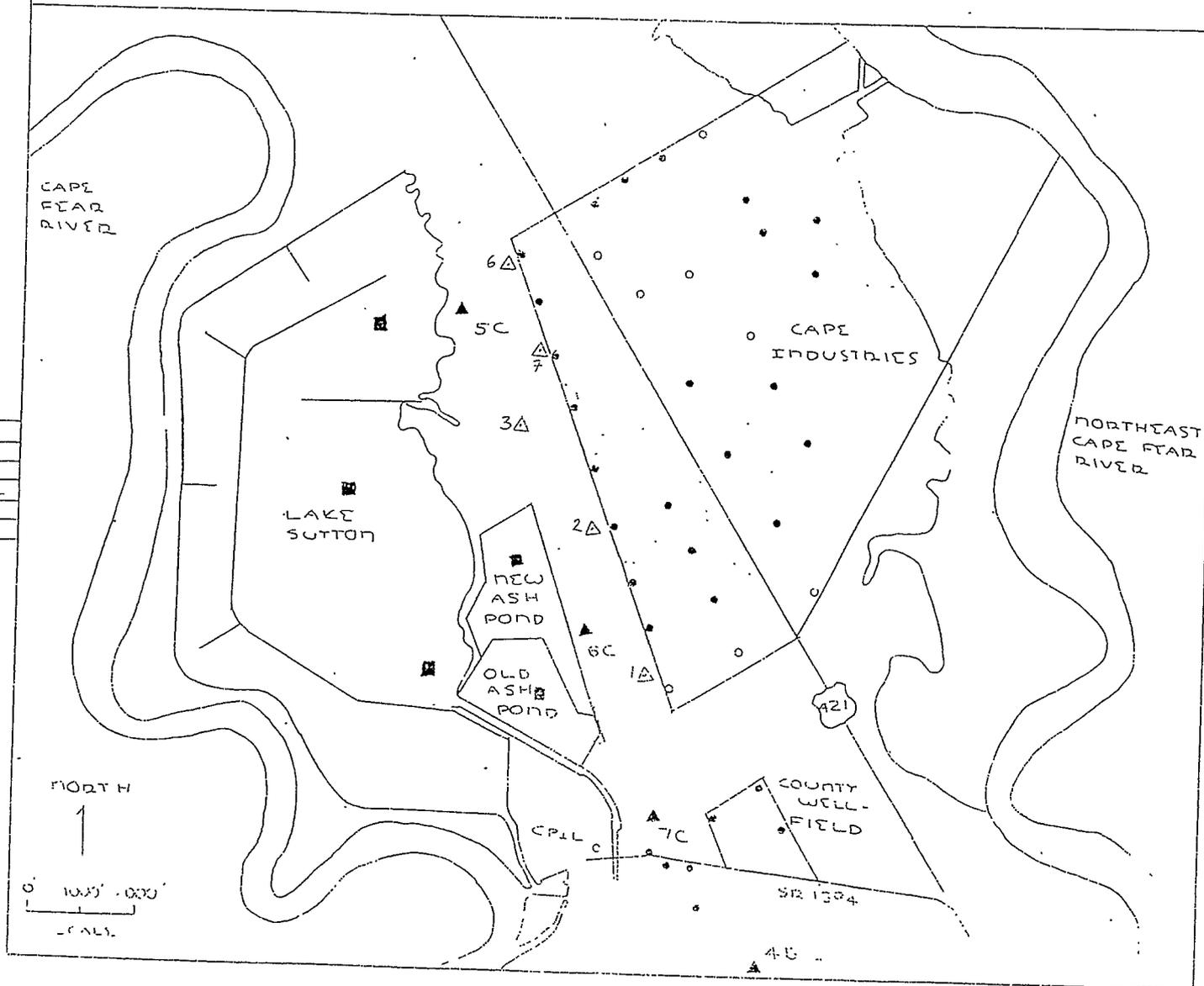


FIGURE 1 - A MAP THAT SHOWS THE LOCATION OF THE COMPLAINTS AND MONITORING STATIONS CPE - L.V. SUTTON

- LEGEND:
- △ - PROPOSED LOCATION OF NEW MONITORING WELL OR WELL TO EXPOSE TO ± 40-50' ZONE)
  - ▲ - LOCATION OF EXISTING MONITORING WELL
  - - WATER SUPPLY WELL (ACTIVE)
  - - WATER SUPPLY WELL (IMPACT - 10%)
  - - SURFACE WATER MONITORING STATION
  - 7C - WELL NO.



**State of North Carolina**  
**Department of Environment, Health and Natural Resources**  
**Division of Environmental Management**  
512 North Salisbury Street • Raleigh, North Carolina 27611

James G. Martin, Governor  
William W. Cobey, Jr., Secretary

George T. Everett, Ph.D  
Director

March 5, 1992

Dr. George J. Oliver  
Carolina Power & Light Company  
Post Office Box 1551, CPB-3A2  
Raleigh, North Carolina 27602

Subject: Permit No. NC0003433  
Authorization to Construct  
Carolina Power & Light Company  
Cape Fear Facility (S.E.P.)  
Wastewater Treatment Facility  
Chatham County

Dear Dr. Oliver

A letter of request for an Authorization to Construct was received January 30, 1992 by the Division and final plans and specifications for the subject project have been reviewed and found to be satisfactory. Authorization is hereby granted for the construction of a new cooling tower diversion box with stop log gates, a new 120 foot long 10 foot diameter discharge structure with stop logs which will divert approximately 140 MGD of cooling water to the discharge channel (to dilute the 0.5 MGD Ash Pond discharge), a sampling bridge across the discharge channel within 300 feet below the final ash pond discharge, a rip-rap weir across the discharge channel within 300 feet below the final ash pond discharge, and all associated piping, modifications, controls and appurtenances with discharge of treated wastewater into an unnamed tributary to the Cape Fear River, classified Class WS-III waters.

This Authorization to Construct is issued in accordance with Part III paragraph A of NPDES Permit No. NC0003433 issued July 22, 1991 and shall be subject to revocation unless the wastewater treatment facilities are constructed in accordance with the conditions and limitations specified in Permit No. NC0003433

The sludge generated from these treatment facilities must be disposed of in accordance with G.S. 143-215.1 and in a manner approved by the North Carolina Division of Environmental Management.

**Regional Offices**

Asheville 704/251-6208	Fayetteville 919/486-1541	Mooreville 704/663-1699	Raleigh 919/733-2314	Washington 919/946-6481	Wilmington 919/395-3900	Winston-Salem 919/896-7007
---------------------------	------------------------------	----------------------------	-------------------------	----------------------------	----------------------------	-------------------------------

**Pollution Prevention Pays**

P.O. Box 29535, Raleigh, North Carolina 27626-0535 Telephone 919-733-7015  
An Equal Opportunity Affirmative Action Employer

In the event that the facilities fail to perform satisfactorily, including the creation of nuisance conditions, the Permittee shall take immediate corrective action, including those as may be required by this Division, such as the construction of additional or replacement wastewater treatment or disposal facilities.

The Raleigh Regional Office, phone no. 919/ 571-4700 shall be notified at least forty-eight (48) hours in advance of operation of the installed facilities so that an in-place inspection can be made. Such notification to the regional supervisor shall be made during the normal office hours from 8:00 a.m. until 5:00 p.m. on Monday through Friday, excluding State Holidays.

Upon completion of construction and prior to operation of this permitted facility, a certification must be received from a professional engineer certifying that the permitted facility has been installed in accordance with the NPDES Permit, this Authorization to Construct and the approved plans and specifications. Mail the Certification to the Permits and Engineering Unit, P.O. Box 29535, Raleigh, NC 27626-0535.

Upon classification of the facility by the Certification Commission, the Permittee shall employ a certified wastewater treatment plant operator to be in responsible charge of the wastewater treatment facilities. The operator must hold a certificate of the type and grade at least equivalent to the classification assigned to the wastewater treatment facilities by the Certification Commission.

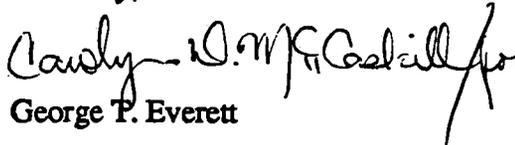
A copy of the approved plans and specifications shall be maintained on file by the Permittee for the life of the facility.

Failure to abide by the requirements contained in this Authorization to Construct may subject the Permittee to an enforcement action by the Division of Environmental Management in accordance with North Carolina General Statute 143-215.6A to 143-215.6C.

The issuance of this Authorization to Construct does not preclude the Permittee from complying with any and all statutes, rules, regulations, or ordinances which may be imposed by other government agencies (local, state, and federal) which have jurisdiction.

One (1) set of approved plans and specifications is being forwarded to you. If you have any questions or need additional information, please contact Mr. John Seymour telephone number 919/733-5083.

Sincerely,

  
George T. Everett

cc: Chatham County Health Department  
Raleigh Regional Office, Water Quality  
Training and Certification Unit (no rating change)  
Facilities Assessment Unit



# North Carolina Department of Natural Resources & Community Development

James B. Hunt, Jr., Governor

James A. Summers, Secretary

Robert F. Helms  
Director

Telephone 919 733-7015

January 16, 1984

Mr. B. J. Furr, Vice President  
Operations Training and Technical Services  
Carolina Power and Light Company  
Post Office Box 1551  
Raleigh, North Carolina 27602

SUBJECT: Permit No. NC0003433  
Authorization to Construct  
Carolina Power and Light Company  
Cape Fear Steam Electric Plant  
New Fly Ash Lagoon  
Chatham County

Dear Mr. Furr:

A letter of request for Authorization to Construct was received December 6, 1983, by the Division and final plans and specifications for the subject project have been reviewed and found to be satisfactory. Authorization is hereby granted for the construction of a 59.5 acre fly ash settling/storage lagoon to serve Carolina Power and Light Company's Cape Fear Steam Electric Plant in Chatham County.

This Authorization to Construct is issued in accordance with Part III paragraph C of NPDES Permit No. NC0003433 issued August 30, 1976, and shall be subject to revocation unless the wastewater treatment facilities are constructed in accordance with the conditions and limitations specified in Permit No. NC0003433.

The Permittee must employ a certified wastewater operator in accordance with Part III paragraph D of the reference permit.

The sludge generated from these treatment facilities must be disposed of in accordance with G.S. 143-215.1 and in a manner approvable by the North Carolina Division of Environmental Management.

In event the facilities fail to perform satisfactorily in meeting it's NPDES permit effluent limits, Carolina Power and Light Company shall take such immediate corrective action as may be required by this Division, including the construction of additional wastewater treatment and disposal facilities.

One (1) set of approved plans and specifications is being forwarded to you. If you have any questions or need additional information, please contact H. Dale Crisp, telephone number 919/733-5083, extension 108.

Sincerely yours,

Original Signed By  
FORREST R. WESTALL  
Robert For Helms

cc: Mr. Forrest R. Westall ✓  
Raleigh Regional Supervisor  
Raleigh Regional Office Manager  
Chatham County Health Department

HDC/djb

**DIVISION OF ENVIRONMENTAL MANAGEMENT**

**July 5, 1978**

**Mr. M. A. McDuffie  
Senior Vice Engineer  
Engineering and Construction  
Carolina Power and Light Company  
336 Fayetteville Street  
P.O. Box 1551  
Raleigh, N.C. 27602**

**SUBJECT: Permit No. NC0003433  
Authorization to Construct  
Carolina Power and Light Company  
Cape Fear Steam Electric Plant  
Ash Pond Construction  
Chatham County**

**Dear Mr. McDuffie:**

The final plans and specifications for the subject project have been reviewed and found to be satisfactory. Authorization is hereby granted for the construction of an addition to the existing ash storage basin to consist of approximately 70 additional acres of surface area for ash storage and the raising of the existing ash basin dike at the Cape Fear Steam Electric Plant of Chatham County.

This is a Class I wastewater treatment plant which requires that the person in responsible charge hold a valid Grade I certificate.

This Authorization to Construct shall become voidable unless Carolina Power and Light Company makes application to the Environmental Protection Agency for modification of the ash pond discharge point to the plant discharge canal while the existing ash basin dike is raised. Upon completion of the project, the ash basin discharge to the Cape Fear River will resume.

This Authorization to Construct shall be subject to revocation unless the wastewater treatment facilities are constructed in accordance with the conditions and limitations specified in Permit No. NC0003433.

Also, enclosed is a copy of WPC Form #50 "Cost of Wastewater Treatment Works." This form is to be completed and returned to this office within thirty (30) days after the project is completed.

**Authorization to Construct  
Carolina Power and Light Company  
Cape Fear Steam Electric Plant  
Ash Pond Construction  
Chatham County**

**Page 2  
Cont.**

**One (1) set of approved plans and specifications is being forwarded to you.**

**Sincerely yours,**

Original Signed By  
A. F. McRORIE

A. F. McRorie  
Director

**Enclosures**

**cc: Environmental Protection Agency  
Chatham County Health Department  
Mr. R. S. Taylor  
Mr. W. S. Hoffman  
Planning and Management Section**



JAMES B. HUNT, JR.  
GOVERNOR

BILL HOLMAN  
SECRETARY

KERR T. STEVENS  
DIRECTOR



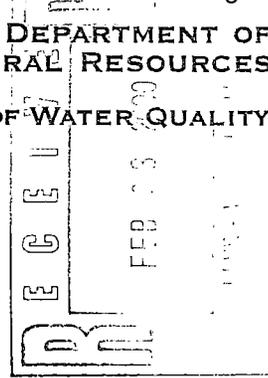
I/A

NORTH CAROLINA DEPARTMENT OF  
ENVIRONMENT AND NATURAL RESOURCES

DIVISION OF WATER QUALITY

GROUNDWATER SECTION

February 25, 2000



Mr. Steve Davis, ORC  
CP&L's W. H. Weatherspoon Plant  
491 Power Plant Road  
Lumberton, NC 28358

Subject: Administrative Amendment  
Reduction of Groundwater Monitoring Requirements  
Permit No. NC0005363

Dear Mr. Davis:

The Fayetteville Regional Office Groundwater Section has reviewed the Weatherspoon Plant's monitoring reports. Upon this review we would like to allow temporary closure of the monitoring wells around the lagoon and no further groundwater monitoring at this time.

The procedures for temporary abandonment are outlined in the North Carolina Administrative Code Title 15A 2C .0113 (a). For your reference, I have included this portion.

- (1) Procedures for temporary abandonment of wells:
  - (A) Upon temporary removal from service or prior to being put into service, the well shall be sealed with a water-tight cap or seal compatible with casing and installed so that it cannot be removed easily by hand.
  - (B) The well shall be maintained whereby it is not a source or channel for contamination during temporary abandonment.
  - (C) Every temporarily abandoned well shall be protected with a casing.

On, Tuesday, February 22, 2000, the Fayetteville Regional Office staff contacted Brian Wootton, of the Groundwater Central Office, to confirm the monitoring wells do not need to be sampled in March 2000.

Please notify this office in writing within thirty days after the temporary abandonment of the monitoring wells. If you have any questions, please contact Jennifer Phillips at (910)486-1541. Thank you.

Sincerely,

Stephen A. Barnhardt  
Regional Groundwater Supervisor

c: Ms. Louise England, CP&L, 3932 New Hill-Holleman Rd, New Hill, NC 27562-0327  
Mr. Brian Wootton, GW Central Office, 1636 MSC, Raleigh, NC 27669-1636  
Mr. Charles Weaver, DWQ-NPDES Unit, 1617 Mail Service Center, Raleigh, NC 27699-1617



**NCDENR/DWQ  
FACT SHEET FOR NPDES PERMIT DEVELOPMENT**

Carolina Power & Light Company  
NPDES No. NC0005363

<b>Facility Information</b>			
(1.) Facility Name:	Weatherspoon Steam Electric Plant		
(2.) Permitted Flow (MGD):	NA	(6.) County:	Robeson
(3.) Facility Class:	I	(7.) Regional Office:	Fayetteville
(4.) Facility Status: (New or existing)	Existing	(8.) USGS Topo Quad:	I23SW (SE Lumberton, NC)
(5.) Permit Status: (i.e., New, Modification, or Renewal)	Renewal		
<b>Stream Characteristics</b>			
(1.) Receiving Stream:	Lumber River		
(2.) Subbasin:	030751	(8.) Drainage Area (mi <sup>2</sup> ):	716.00
(3.) Index No.:	14-13	(9.) Summer 7Q10 (cfs)	122
(4.) Stream Classification:	C-Swamp	(10.) Winter 7Q10 (cfs):	192
(5.) 303(d) Listed:	YES	(11.) 30Q2 (cfs):	304
(6.) 305(b) Status:		(12.) Average Flow (cfs):	869.00
(7.) Use Support:		(13.) IWC (%):	Variable

**Conditions Incorporated into Permit Renewal**

<b>Proposed Conditions</b>	<b>Parameters Affected</b>	<b>Basis for Condition(s)</b>
Change monitoring frequency (E,U,D) from monthly to quarterly.	Outfall 002 (Temperature)	This is more stringent than semi-annual monitoring required in General Permit NCG500000 (for non-contact cooling water), but provides some break in monitoring based on recent instream track record.
Add footnote requiring TRC monitoring only when chlorine is added.	Outfall 002 (TRC)	Reflects General Permit NCG500000 language.
Add quarterly effluent monitoring and limit	Outfall 002 (pH)	Reflects General Permit NCG500000 language.

**NPDES PERMIT FACT SHEET**

I/A

**Carolina Power & Light Company**

Page 2

NPDES No. NC0005363

Add effluent limit	Outfall 001 (pH)	Current permit has monitoring but no limit. Change is consistent with other CP&L facility.
Add effluent monitoring.	Outfall 001 (temperature)	Change is consistent with other CP&L facility.
Change permit expiration date to 7/31/04	Permit Expiration	Reflects basin plan schedule

**PROJECT NOTES**

Summary

- This is a permit renewal for CP&L's Weatherspoon coal-fired steam electric plant. Facility consists of 3 coal-fired units with a total net capacity of 176 MW, and 4 internal combustion turbines with a total net capacity of 138 MW.
- Outfall 001 (recirculated cooling water, coal pile runoff, stormwater runoff, ash sluice water, domestic wastewater, chemical metal cleaning wastewater) is permitted to discharge from a 225 acre cooling pond (Class I rating) under extreme weather conditions or pond maintenance. This pond does not discharge as part of normal operation. There was one discharge event in 1999 due to Hurricane Floyd, and one discharge event in 1998 (refer to DMR Summary). There is no flow limit.
- Outfall 002 discharges non-contact cooling water from heat exchanger units. Chlorine is added as needed to control biological fouling of heat exchanger; however, per EPA Form 2C, sodium hypochlorite has not been added to Outfall 002 since 7/98. Between 98-99, monthly avg flows have generally ranged from 2-7 MGD (IWC of 2-8%), with daily max flow of 9 MGD (IWC= 10%). There were discharges on 255 days over 13-month period. There is no flow limit.
- The facility discharges to the Lumber River (C-Swamp), which is listed on the 303(d) list due to mercury fish advisories. For this facility, the EPA Form 2C data reports no detection of Hg (<0.2 ug/l) from 001/002 samples (n=1).

Permit Issues

- In the renewal application, CP&L requested four modifications:
  1. *Require Outfall 002 TRC monitoring only when chlorine is added.* [NPDES Response: Agreed. This is consistent with current General Permit language for non-contact cooling water].
  2. *Delete Outfall 002 monthly temperature monitoring (E,U,D) because past monitoring has shown no adverse effect.* [NPDES Response: Reduce frequency to quarterly. Instream monthly data for 98/99 has shown limited influence on temperature (max of 1°C increase) between up/down stations.]
  3. *Eliminate requirement to notify Division by June 30 if no discharge occurs from Outfall 001.* [NPDES Response: Disagree. This condition is within the tox test requirements, and AqTox Unit needs this separate submission to track toxicity compliance].
  4. *Eliminate the requirement to conduct ash pond groundwater monitoring. Groundwater monitoring over the past nine years has demonstrated that the ash pond is not adversely impacting groundwater.* [NPDES Response: Although the NPDES permit includes boilerplate that provides for groundwater monitoring when needed, the actual request and monitoring requirements originated by letter from the Groundwater Section. Therefore, NPDES will alert permittee to discuss directly with the GW Section].
- Facility regulated by effluent guidelines 40CFR423 (Steam Electric Power Generators). Outfall 002 TRC limit was previously inserted per 423.13(b) for once-through cooling water >25MW. Previous parameters recommended for monitoring for 001/002 are based on guidelines and data. These will be recommended again.

DMR Data Summary.

- Outfall 001 (Cooling Pond). There was one discharge event in 1999 in response to Hurricane Floyd in September (5 day discharge; daily flow ranged from 44-51 MGD; pH 7.9; TSS 3 mg/l; O&G <5 mg/l; As 0.038 mg/l; Cu <0.010 mg/l; Fe 0.11 mg/l; Se 0.015 mg/l; Acute tox >99%). There was also one discharge event in March 1998 (6 day discharge; daily flows ranged from 1.4-36 MGD; pH 7.1; TSS 10 mg/l; O&G < 5 mg/l; As 0.006 mg/l; Cu 0.043 mg/l; Fe 0.13 mg/l; Se 0.004 mg/l; Acute tox >99%). Acute tox test (24-hr LC50, Fathead minnow) passed for all annual tests (n=3) between 1995-99. There was no discharge reported for 1996 and 97.
- Outfall 002(non-contact cooling water). Monthly discharge volumes generally range from 2-7 MGD. TRC is generally 0. Max increase in downstream temp (relative to upstream) is 1°C, and this increasing trend was reported for only 4/21 months; therefore, effluent does not appear to impact instream temp. EPA Form 2C Pollutant Analysis (n=1) detected copper at 23 ug/l (NC Action Level = 7 ug/l x Dilution(9.75) = 68 ug/l allowable) and zinc at 15 ug/l (NC Action Level = 50 ug/l x Dilution (9.75) = 487 ug/l allowable). Mercury was reported as < 0.2 ug/l. **FRO- do you know where the upstream/downstream samples are collected for Outfall 002 (e.g., 200-feet downstream)? I'd like to expand descriptions in the permit, since this is relevant to temp.**

WLA Data. *No, not exactly Steve Davis is ORE + can be reached at 910 671-1217, but I expect at most accessible location possible. I tried to call him before*

- The last WLA was conducted 3/94. *I mailed this back + he was not in.*

Region Data.

- In a memo dated 6/7/99, the FRO (KK, PR) recommended permit reissuance with the following comments:
  1. FRO does not agree with CP&L request to delete temp monitoring currently performed at Outfall 002. **FRO- are you comfortable with NPDES proposed change to quarterly?** *Yes All*
  2. FRO suggests the CP&L request to eliminate ash pond groundwater monitoring be addressed with DWQ GW Section. [Note: This issue to be resolved outside current permit, between permittee and GW Section].
  3. FRO o.k. with CP&L request to monitor TRC (at 002) only when chlorine is added.
  4. FRO recommends permit renewal in keeping with basinwide strategy.
- FRO conducted CEI on 4/26/99. No deficiencies were reported.

**Proposed Schedule for Permit Issuance**

Draft Permit to Public Notice: 2/9/00  
Permit Scheduled to Issue: 3/27/00

**State Contact**

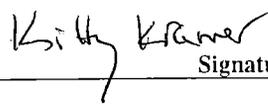
If you have any questions on any of the above information or on the attached permit, please contact Tom Belnick at (919) 733-5038, extension 543.

Copies of the following are attached to provide further information on the permit development:

- Reasonable Potential Analysis (majors only)
- Existing permit effluent sheets with changes noted (existing facilities only)
- Draft Permit

<b><u>NPDES Recommendation by:</u></b>	 Signature	1-12-00 Date
--	---	-----------------

**Regional Office Comments** : Concur with permit as drafted.  
Thankyou  
Kiby

<b><u>Regional Recommendation by:</u></b>	 Signature	2-1-00 Date
---	--	----------------

Reviewed and accepted by:

<b><u>Regional Supervisor:</u></b>	 Signature	1-20-00 Date
<b><u>NPDES Unit Supervisor:</u></b>	 Signature	6/23/00 Date

## DIVISION OF WATER QUALITY

*Fayetteville Regional Office*

*Water Quality Section*

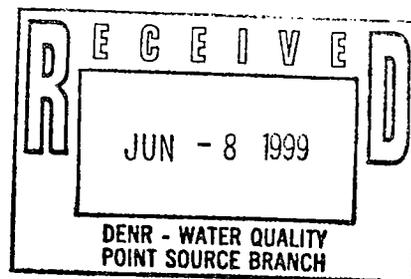
June 7, 1999

### MEMORANDUM

TO : Dave Goodrich, Supervisor  
NPDES Permits  
Archdale Building

FROM : *Atle* Kitty Kramer and Paul Rawls

Subject : Minor NPDES Permit Renewals  
Weatherspoon Steam Electric Plant WWTP, NC0005363  
Town of Clarkton WWTP , NC0021610  
Orrum High School WWTP , NC0034100  
Deep Branch El. School WWTP , NC0034070



The following are comments for the subject minor permit renewals. If further information is required please advised.

- Weatherspoon Steam Electric Plant WWTP, NC0005363
  - No rating sheet attached, no change in rating, Class I , Lagoon
  - No special conditions, limitations or monitoring suggested other than addressed below:

*The permittee has asked for the following modifications of the NPDES permit.*

    - "Require monitoring of TRC at Outfall 002 only when chlorine is added.  
***The FRO finds this request acceptable if consistent with other similar facilities.***
    - Delete temperature monitoring currently performed at Outfall 002.  
***The FRO does NOT find this request acceptable. Temperature is believed critical in the slow moving water of the Lumber River.***
    - Eliminate the requirement to conduct a pond groundwater monitoring.  
***This item should be addressed by the DWQ Groundwater Section.***
- Recommend reissuance in keeping with basin wide strategy.

**Project Phone Log**  
**Tom Belnick, NPDES Unit**

NPDES NC00 05363  
Facility CPOL Weatherspoon  
County \_\_\_\_\_

- 1) Art Barnhardt - FRO/OW Super 1-6-00  
- Can we remove OW monitor? Art will review data
- 2) Jennifer Phillips - FRO/Hydrogeol 1-6-00  
Jennifer is reviewing data.  
1-7-00

Se - high in OW -

1/10 I discussed w/ FRO-OW (Jennifer Phillips) - I'll add  
blank in permit that facilities should contact OW  
about monitoring reqs.

2/10 Steve Davis, CPOL ORC 910-671-1217  
- U/A stations for 002 are approx 1/4 mile up/down  
of outfall.

I/A



**Carolina Power & Light Company**  
Weatherspoon Steam Electric Plant  
491 Power Plant Rd.  
Lumberton, NC 28358

File No: WSPN - 12520B-1

May 21, 1999

Mr. Kerr T. Stevens  
North Carolina Division of Water Quality  
512 N. Salisbury Street  
P. O. Box 29535  
Raleigh, N. C. 27626-0535

Subject: Weatherspoon Steam Electric Plant  
National Pollutant Discharge Elimination System (NPDES) Permit No. NC0005363  
Renewal Application

Dear Mr. Stevens:

The current NPDES permit for Carolina Power & Light Company's Weatherspoon Steam Electric Plant located in Robeson County expires on November 30, 1999. CP&L hereby requests that the NPDES permit for the facility be reissued. The Weatherspoon Steam Electric Plant is expected to continue to operate over the next five years as it has previously, and no major changes are expected that might affect the discharges from the plant that are identified in this application. Enclosed are the EPA Application Form 1 - General Information and EPA Application Form 2C - Wastewater Discharge Information, both in triplicate.

With reissuance of the NPDES permit, CP&L requests the following:

- Require the monitoring of total residual chlorine (TRC) at Outfall 002 only when chlorine is added. Currently, CP&L monitors TRC weekly, regardless of chlorine addition.
- Delete the temperature monitoring currently performed at Outfall 002 - including upstream and downstream monitoring. Temperature monitoring over the past years has demonstrated that discharge from this outfall does not have an adverse effect on the temperature of the Lumber River.
- Eliminate the requirement to notify the Division by June 30 if no discharge occurs from Outfall 001 as per Part III, Condition E of the current permit. Since the NPDES DMR for this outfall already identifies that no discharge has occurred, the requirement to send in a separate letter is redundant.
- Eliminate the requirement to conduct ash pond groundwater monitoring. Groundwater monitoring over the past nine years has demonstrated that the ash pond is not adversely impacting the groundwater at this facility.

99 MAY 21 PM 2:12

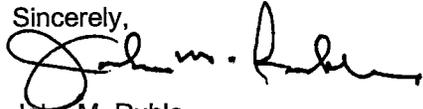
RECEIVED  
GENERAL WATER QUALITY  
ADMINISTRATIVE SERVICES

I/A

Descriptions of sludge disposal for the different waste streams are included in Attachment 3 of the EPA Application Form 2C.

If there are any questions regarding the enclosed information, please contact Ms. Louise England at (919) 362-3522.

Sincerely,

A handwritten signature in black ink, appearing to read "John M. Ruble". The signature is fluid and cursive, with a large initial "J" and a long horizontal stroke extending to the right.

John M. Ruble  
Plant Manager - Weatherspoon Plant

Enclosures



memo

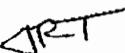
Date: August 20, 2009

To: Laurie Moorhead  
Dulcie Phillips  
Kent Tyndall  
Billy Milam

Leigh Barr  
Ricky Miller  
Larry Baxley  
Robert Howard

Cc: Cam Wheeler  
Dan Kemp  
Shannon Langley  
Steve Cahoon

Alan Madewell  
Fred Holt  
Robin Bryson

From: John Toepfer 

Subject: Progress Energy/Duke Energy and DENR Meeting on July 23, 2009

Attendance:

Ted Bush – Section Chief, Aquifer Protection Section - DENR  
Debra Watts – Supervisor, Groundwater Protection Unit – DENR  
Betty Wilcox – Groundwater Protection Unit - DENR  
Eric Smith – Groundwater Protection Unit - DENR  
Matt Matthews - NPDES Unit – DENR  
Sergei Chernikov – NPDES Unit - DENR  
Ed Sullivan, Allen Stowe and George Everett – Duke Energy  
Cam Wheeler, Alan Madewell and John Toepfer - PEC

Debra Watts stated that they (APS) had received and responded to many questions from the media and the public about ash ponds so far this year. Some had requested copies of groundwater monitoring data and APS had provided it when available. When asked by the public, the APS staff had commended the utility companies for volunteering this groundwater monitoring program and maintaining a productive working relationship with the agency.

DENR along with PEC posed questions to discuss at this meeting. DENR then developed the "Topics to Discuss" which lead the meeting. I include the questions along with items discussed below:

1. Is it feasible to evaluate the entire power plant site for compliance as one source rather than on an individual site-by-site basis (e.g. landfills, active ash ponds, inactive ash ponds, etc.)?

Memorandum

2

Ted Bush stated that this is not an unreasonable question. Both Aquifer Protection Section and NPDES were open to such an evaluation but stated it would require bringing solid waste to the table to discuss. Then if all DENR Divisions were open to such an evaluation, the statutes would need to be changed along with the corresponding regulations. George Everett and Cam Wheeler have the action item to bring Solid Waste and Water Quality DENR personnel to the table to discuss further.

2. Is it feasible to evaluate these same sites on a risk-based approach rather than on a 2L basis (does DWQ support or not support)? Additionally, if groundwater discharging to surface water, but the surface water still meets NPDES limits or water quality standards, is this acceptable?

As above, DENR is open to risk based approaches but must follow the statutes and regulations which force them to follow 2L. Would require statute and corresponding regulation changes to allow risk based approaches for our industry. Right now, only dry cleaners and leaking USTs have risk based cleanup standards. This is a long standing issue from industry and has consistently been opposed by environmental organizations. There is a proposed bill in the state legislature which discusses risk based cleanup standards for industry but it does not look promising. Cam Wheeler and George Everett will discuss this in their future meeting with DENR Solid Waste and Water Quality.

Debra Watts stated that if you have a site where a water body is located within your compliance boundary around an ash pond and groundwater flows into this water body, you can have exceedances of 2L standards in the groundwater with no further work required by APS. However, the water body must be in compliance with all surface water standards (review surface water sampling results to same constituents monitored in groundwater) for APS to state no further work required. Then, NPDES is satisfied since the water body is in compliance with all surface water standards. NPDES and APS would want to see surface water sampling both upstream and downstream of the potential ash pond discharge into the surface water body.

3. How does DWQ plan to address inactive sites that are not permitted and not operating e.g. give over to DWM, leave alone, monitor? If the sites are permitted and receiving waste, what are the closure requirements?

DWQ stated they would not address inactive sites but did not state if they would hand over to DWM or not. Unless there is reason to believe these inactive sites could cause groundwater or surface water impacts, they will leave them alone.

DWQ have on-site lagoon closure requirements but admit they are light on specifics and open to a wide interpretation. These interpretations would be made by the appropriate regions on site by site basis. Both APS and NPDES said they would get together internally to discuss closure requirements for ash ponds. They did not state by when they would issue closure requirements for ash ponds.

4. Does DWQ plan to incorporate groundwater monitoring for active sites into NPDES permits? If so, at what point – mid-stream of the permitting cycle, volunteer only, etc.?

Debra Watts stated she wanted to see groundwater monitoring incorporated into NPDES permits once exceedances are recorded at the review boundary. She stated the NPDES permit would not incorporate all groundwater monitoring wells nor all constituents but would be captured into the permit in some form. Both PEC and Duke were not in favor. We stated that the voluntary approach now had lost all flexibility

Memorandum

3

once within a permit. Examples were groundwater results must be sent to DENR within 30 days or an NOV is issued. NPDES submittals require signatory authority. These arbitrary barriers could lead to NOV's and both companies are adverse to NOV's. Also, any changes to the monitoring program would now require a permit modification with public comment. Many PEC and Duke sites just completed their 5 year NPDES permit cycle and would not want to open the permit to incorporate groundwater monitoring. Plus when the permit is opened, much could change besides the addition of groundwater monitoring. Debra Watts stated she was not aware of these concerns and states she may re-think the requirement to have groundwater monitoring within the NPDES permit. She indicated that her concerns over access to the data might be adequately addressed with a software change.

At this time, Ted Bush and George Everett had to leave to attend meetings at the legislature building. As the remaining questions only pertained to APS, Matt Matthews and Sergei Chernikov exited the meeting.

5. "Location of waste disposal areas and other potential sources of contamination at the site."  
Does this include all contamination not associated with CCP sites, e.g. oil spills?

DENR was satisfied with the information that PEC and Duke Energy supplied APS back in April 2009. Both companies stated that since the request for information from DENR was CCP related, we only submitted information on active, semi-active and inactive CCP sites and this was sufficient for DENR.

6. Well data (site-by-site basis). DWQ observations and recommendations.

Eric Smith had comments on a site-by-site basis for both companies. Most of the comments related to the fact that the wells were not at the review boundary (between waste boundary and review boundary) and that the well screens were below the groundwater elevation (this might result in a stagnant layer of water above the screen that could affect low flow sampling results). Eric did not have the comments for both companies in writing but stated he would provide both companies the comments in writing shortly.

7. Water quality data (site-by-site basis). DWQ observations and recommendations.

Due to time issues, the question was not discussed in great detail. Any comments from DENR would be incorporated into Eric Smith's comments.

8. Recommended definition of waste boundary – acceptable or not acceptable?

Debra Watts stated that she discussed with the various DENR regions our definition of the waste boundary, the starting point for determining the location of review and compliance boundaries. We stated in our April 2009 submittal to DENR that the waste boundary should not be at the edge of water adjacent to a dam, but at the downstream toe of the dams and dikes. DENR has decided to accept this position and therefore, significant additional distance is provided to allow for compliance with groundwater quality standards downgradient from dams. Also, PEC does not have to change the location of the waste boundary, nor review and compliance boundaries as shown in the April 2009 submittal to DENR. One note: DENR does want to see the waste boundary along with the review and compliance boundaries circle the entire ash pond. This will require that PEC Asheville Plant, Mayo Plant and Sutton Plant figures to be updated at some point. Cape Fear, Lee and Weatherspoon figures will not require changes for this issue.

9. Compliance boundaries that overlap with other permitted sites or fall into surface water.

Memorandum

4

Duke Energy has a few sites where compliance boundaries overlap. APS stated they were not too concerned, as long as the well was within a compliance boundary, they would not require additional work. Duke Energy stated DSW viewed this differently. This topic would be discussed when George Everett and Cam Wheeler meet with DENR Solid Waste and Water Quality.

It was discussed already that APS would be open to monitoring the surface water body when the compliance boundary falls into an adjacent water body. However, Debra Watts did state you would still have to follow 2L for sites where a surface water body is just beyond the compliance boundary and wells at the compliance boundary show 2L exceedances. Our Asheville Plant is a potential example of this situation. The French Broad River is just beyond the compliance boundary but we don't yet have wells at the compliance boundary. The group did discuss that 2L has options that can be explored such as variances from 2L, monitoring the surface water body and modeling rather than pump and treat to remedy exceedances at the compliance boundary.

**DWQ AND PROGRESS ENERGY/DUKE ENERGY MEETING  
AGENDA**

**July 23, 2009**

---

<u>Timeframe</u>	<u>Topics to Discuss</u>
10:00 to 11:00	<p>Division discussion</p> <ol style="list-style-type: none"><li>1. Is it feasible to evaluate the entire power plant site for compliance as one source rather than on an individual site-by-site basis (e.g. land fills, active ash ponds, inactive ash ponds, etc.)</li><li>2. Is it feasible to evaluate these same sites on a risk-based approach rather than on a 2L basis (does DWQ support or not support). Additionally, if groundwater is discharging to surface water, but the surface water still meets NPDES limits, is this acceptable?</li><li>3. How does the DWQ plan to address inactive sites that are not permitted and not operating e.g. give over to DWM, leave alone, monitor? If the sites are permitted and receiving waste, what are the closure requirements?</li><li>4. Does DWQ plan to incorporate groundwater monitoring for active sites into NPDES permits? If so, at what point – mid-stream of the permitting cycle, volunteer only, etc.</li></ol>
11:00 to 12:00	<p>Follow-up items to June 4<sup>th</sup> Meeting:</p> <ol style="list-style-type: none"><li>✓ 5. "Location of waste disposal areas and other potential sources of contamination at the site." Does this include all contamination not associated with CCP sites, e.g. oil spills?</li><li>✓ 6. Well data (site-per-site basis). Discussion on well locations, well construction, etc.</li><li>✓ 7. Water quality data (site-per-site basis). DWQ observations and recommendations</li><li>✓ 8. Recommended definition of waste boundary – acceptable or not acceptable? <i>Regions comfortable w/ this approach</i></li><li>✓ 9. Compliance boundaries that overlap with other permitted sites or fall into surface water</li></ol>

# Marcia E. Williams

SENIOR VICE PRESIDENT

## OVERVIEW

Ms. Williams has played a significant role in both the public and private sectors in the development, implementation and enforcement of federal and state regulatory programs, holding particular expertise in the solid and hazardous waste fields. She has specialized in helping regulated entities establish and strengthen EHS management programs, respond proactively to upcoming regulations and legislation, and improve the cost-effectiveness of EHS program implementation. In a distinguished 18-year career with the USEPA, she held senior management positions in multiple USEPA offices. She also held senior management positions at Browning-Ferris Industries and served as a member of the Board of Directors of Safety-Kleen Corporation. Ms. Williams has provided expert testimony in a wide range of litigation matters including insurance coverage cases, contract disputes, CERCLA cost recovery actions, toxic tort cases, federal and state civil and criminal enforcement matters, and NAFTA cases.

## CONSULTING EXPERIENCE

Ms. Williams has managed projects ranging in size from \$50,000 US to over \$2,500,000 US. Her practice focuses on the following four areas:

### REGULATORY EXPERT AND LITIGATION SUPPORT

Ms. Williams has served as a consulting and testifying expert in the areas of solid and hazardous waste regulations and practices, chemical and pesticide regulation under TSCA and FIFRA including PCB regulation, the regulatory process, the evolution of risk assessment and risk management applied to environmental regulation, the historical evolution of environmental knowledge and regulations, standard of care applied to particular waste and chemical management practices, the extent to which remedial activities are consistent with the National Contingency Plan, and evolution and design of environmental management systems. Ms. Williams has testified in approximately 40 cases and has also been engaged in numerous additional matters that have not resulted in testimony. In addition to serving as an expert, Ms. Williams has managed litigation support projects including analyses of underlying case facts, chronologies of relevant regulatory history, comparative analyses of other enforcement actions, estimation of settlement costs, and development of case settlement strategies and proposals.

Representative Litigation Support Engagements (not involving expert testimony):

- For a large telecommunications firm, part of the legal negotiating team that achieved a settlement with the government providing multi-million dollar credit for the development of an enhanced environmental management system.

# Marcia E. Williams

## SENIOR VICE PRESIDENT

- For an aluminum company, development of the expected value cost of site remediation that contributed to the settlement of a contract dispute case.
- For an automotive/aerospace firm, identification of underlying case facts, development of potential regulatory defenses, and participation in developing and successfully implementing settlement strategies.

### ENVIRONMENTAL PERFORMANCE ASSESSMENT AND IMPROVEMENT

Ms. Williams has performed over 50 environmental, health, and safety management system projects in virtually every industrial sector as well as in public sector agencies. These projects have included evaluation of existing systems, design of new or enhanced system components, and development of EHS management systems from the ground up. Areas of focus include effective translation of complex EHS requirements into job-based specifications, assessment of management commitment and leadership applied to EHS, development of effective performance metrics, development of cost-effective performance verification tools, design of tools to address management of change, evaluation of the effectiveness of organizational structure and communication flows, development of accountability tools, resource assessments, and contractor/vendor management. Ms. Williams has lectured and written articles on EHS management system approaches and has provided expert testimony on EHS management system issues.

#### Representative EHS Management Engagements:

- For an automotive manufacturer, design of a successful management program at corporate and field level to ensure compliance with hazardous material transportation regulations.
- For a municipal water and wastewater agency, design of an environmental management system that achieved high rates of compliance with a wide range of environmental requirements.
- For a telecommunications firm, assessment of the adequacy of existing environmental resources and prioritization of needed supplemental resources.

### STRATEGIC ENVIRONMENTAL COUSELING AND POLICY SUPPORT

Ms. Williams has performed numerous consulting engagements designed to address specific complex compliance, permitting, and remedial challenges including strategies for interacting with government entities. She has also performed environmental policy

# Marcia E. Williams

SENIOR VICE PRESIDENT

support to clients in the areas of impact analysis of upcoming environmental regulation and legislation, assessment and integration of acquisitions, closure or divestiture of facilities, facility siting, regulatory and legislative strategy to achieve business objectives, benchmarking of industry practices, and enforcement settlement strategy.

## Representative Engagements:

- For a group of PRPs at a regional groundwater site, identified additional PRPs and evaluated allocation and cost recovery issues.
- For a petroleum company, performed probabilistic cost analysis of the company's largest remedial projects to design a strategy that would keep annual remedial payments at a stable level.
- For a diversified manufacturing company, evaluated the projected staffing needs for the corporate remedial group over the next decade, examining organizational options for improving cost-effectiveness.
- For a chemical company, evaluated the regulatory consequences of importing/exporting secondary materials for use in production when those materials were regulated as wastes in the EU.
- For a telecommunications firm, designed and implemented a benchmarking program focused on identifying best practices in several key EHS areas for companies with large numbers of non-manufacturing locations.
- For a recycling firm, evaluated the cost impacts of statutory use restrictions on the use of chlorinated solvents.

## CORPORATE EXPERIENCE

### ENVIRONMENTAL POLICY AND PLANNING, BFI (1988-1991)

- As Chair of Environmental Policy Committee for the second largest waste management company in the world, with \$3 billion in annual revenues, built environmental management framework, developed environmental policies for operating subsidiaries and communicated company environmental accomplishments.
- Crafted major market development strategies by analyzing and forecasting environmental trends, e.g., landfill markets in the 1990s, oil and gas waste management markets and California recycling markets and composting markets.

# Marcia E. Williams

SENIOR VICE PRESIDENT

- Helped operating managers resolve environmental conflicts arising in permit hearings, siting decisions, regulatory interpretations and enforcement actions.
- Established proactive environmental regulatory and legislative program, saving substantial resources and allowing company to advance legislation or regulatory change on critically important issues such as interstate movement of waste, rate regulation, solid waste planning and disposal fees.

## ENVIRONMENTAL AND REGULATORY AFFAIRS, CECOS INTERNATIONAL, BFI SUBSIDIARY (1988-1989)

- Developed zero defect environmental plan for 14 hazardous waste operating sites.
- Managed all aspects of compliance, audit, permitting, and remedial program.

## LOS ANGELES, RECYCLING PROGRAM, BFI (1990-1991)

- Designed program to expand BFI's recycling operations in the Los Angeles market.

## BOARD OF DIRECTORS, SAFETY KLEEN CORPORATION (1995-1998)

- Provided oversight on corporate government and strategic direction.
- Chaired environmental committee of the Board.

## GOVERNMENT EXPERIENCE

### USEPA OFFICE OF SOLID WASTE (SEPTEMBER 1985-FEBRUARY 1988)

- Directed 250-person, \$40 million annual program to implement the 1984 Hazardous and Solid Waste Amendments, which required issuing over 70 new, controversial rules in three years. Received USEPA's distinguished career award.
- Regularly represented USEPA before Congress, states and trade associations as well as to senior government officials in Japan, Australia and India.

# Marcia E. Williams

SENIOR VICE PRESIDENT

## USEPA OFFICE OF PESTICIDES AND TOXIC SUBSTANCES (DECEMBER 1983-SEPTEMBER 1985)

- Managed day-to-day operations of OPTS, a 1,400+ person organization responsible for regulating pesticide and chemical use. Received President's Meritorious Rank Award for significant improvements in the office's workings.
- Led US delegation on international chemical activities for more than three years.

## USEPA OFFICE OF TOXIC SUBSTANCES (JANUARY 1981-DECEMBER 1983)

- Managed 400-person office responsible for new and existing chemical reviews (including regulations on PCBs and asbestos under Toxic Substances Control Act). Received William A. Jump Award for Excellence in Public Administration.
- Chaired US delegation to OECD Chemicals Group.

## USEPA OFFICE OF PESTICIDES (APRIL 1979-JANUARY 1981)

- Developed major agency actions to cancel or restrict pesticides such as EDB, toxaphene, lindane and wood preservatives. Crafted the process for re-registering all pesticides.

## USEPA OFFICE OF PLANNING AND EVALUATION (MARCH 1978-APRIL 1979)

- Built from scratch the first high-level, centralized statistical evaluation office in USEPA, which became instrumental in reviewing all major agency regulations for data quality.

## USEPA OFFICE OF MOBILE SOURCE AIR POLLUTION CONTROL (SEPTEMBER 1972-MARCH 1978)

- Supervised Inspection/Maintenance program and development of test procedures and emission factors for light and heavy-duty vehicles, including fuel economy driving test. Awarded USEPA Bronze Medal.

# Marcia E. Williams

SENIOR VICE PRESIDENT

## USEPA OFFICE OF RESEARCH AND DEVELOPMENT (SEPTEMBER 1970- SEPTEMBER 1972)

- Performed statistical analyses and mathematical modeling to support ambient air quality standards.

## OTHER RELEVANT EXPERIENCE

- Member, Relative Risk Reduction Strategies Committee, Science Advisory Board, USEPA (1989 - 1990).
- Consultant to USEPA Science Advisory Board (1995-1998).
- Member, Science and Technology Research Priorities for Waste Management in California, prepared for California Integrated Waste Management Board (1992).
- Participant, Landfill Capacity and Siting Issues in California, California Integrated Waste Management Board (1994).
- Member, National Academy of Sciences Subcommittees on hazardous wastes, hazardous materials and groundwater contamination (1992 - 1998).
- Testimony before the US Congress on 12 occasions from 1983 - 1995.
- USEPA's National Advisory Committee for Policy and Technology, Subgroups on Wastes and Chemicals (1993 - 1996).
- Headed US delegation to OECD Chemicals Group (1980 - 1985).

## EDUCATION

Dickinson College  
B.S., Math and Physics, *Summa Cum Laude*, Phi Beta Kappa, 1968  
University of Maryland  
Graduate Work, Math and Physics, 1969

## PREVIOUS EMPLOYMENT

Consulting (1991 - 2010)  
LEGC, LLC  
PA Consulting Group, Inc.  
PHB Hagler Bailly, Inc.  
Putnam, Hayes & Bartlett  
Williams & Vanino  
Corporate (1988 - 1998)

# Marcia E. Williams

SENIOR VICE PRESIDENT

Browning-Ferris Industries  
Safety-Kleen Corporation

Government (1970 – 1988)  
US Environmental Protection Agency (USEPA)

## PUBLICATIONS

“Integrated Municipal Solid Waste Management,” *Handbook of Solid Waste Management*, McGraw-Hill (1994).

“Landfills: Old Remedy with New Challenges,” *Forum for Applied Research and Public Policy* (Spring 1992).

“Why-and How to-Benchmark for Environmental Excellence,” *Total Quality Environmental Management* (Winter 1992/93).

“Strategies for Managing Present and Future Waste,” presented in *Risk Analysis* (1991).

“Rethinking RCRA for the 1990’s,” *Environmental Law Reporter* (February 1991) 10,068–10,075.

“Using Cross-functional Teams to Integrate Environmental Issues into Corporate Decisions,” Proceedings of January 1991 Corporate Quality/Environmental Management Conference.

“Environmental Protection Agency Actions to Stimulate Use of Biotechnology for Pollution Control and Cleanup,” *Environmental Biotechnology: Reducing Risks from Environmental Chemicals Through Biotechnology*, edited by G. Omenn (Plenum Press, 1988), 373–380.

“Policy Improvements to Encourage Soil and Groundwater Remediation,” *Groundwater and Soil Contamination Remediation: Toward Compatible Science, Policy and Public Perception*, Report on a Colloquium Sponsored by the National Research Council Water Science and Technology Board (1990) 195–205.

# Marcia E. Williams

SENIOR VICE PRESIDENT

## EXPERT TESTIMONY LIST

- United States of America v. Recticel Foam Corporation, United States District Court, Eastern District of Tennessee, Greenville, Case # CR-2-92-78
- Brunswick Pulp & Paper Co. v. Marcus E. Collins, Sr., Revenue Commissioner, and the State of Georgia, Superior Court for the County of Glynn, State of Georgia, Case # 9400646
- Aluminum Company of America, et al. v. Accident & Casualty Insurance Co., et al., Superior Court of Washington (King County), Case # 92-2-28065-5
- Mark W. Gregory, et al. v. Chemical Waste Management, Inc., United States District Court, Western District of Tennessee, Case # 93-2343-4BRO
- Williston Basin Interstate Pipeline Co. v. Rockwell International Corporation, Montana Thirteenth Judicial District Court
- CIBA-GEIGY Corp. v. Liberty Mutual Insurance Company, Superior Court of New Jersey, Law Division, Union County, Case # L-97515-87
- Cornerstone Realty v. Dresser-Rand, United States District Court, Connecticut, Case # 394CV01560 (DJS)
- Adams et al. (Simmons) v. Chevron et al., United States District Court for the Southern District of Texas, Houston Division, Case # H-96-1462
- Ormet Primary Aluminum Corporation v. Wausau Insurance Companies, et al., Court of Common Pleas, Monroe County, Ohio, Case # 95-103
- Reserve Environmental Services, Inc. v. Detrex Corp. et al., United States District Court for the Northern District of Ohio (Eastern Division), Case # 4: 93-CV-1157
- Southern Pacific Rail Corporation v. Certain Underwriters at Lloyd's London, et al., Los Angeles Superior Court, Case Number: BC 154722
- Dana Corporation v. Hartford Accident & Indemnity Company, et al., No. 49D01-CP-0026
- Metalclad Corporation v. The United Mexican States, ICSID Case No. ARB(AF)/97/1
- Maertin v. Armstrong World Industries, United States District Court for the District of New Jersey, Civil Action No. I-95-cv 02849 (JBS)
- Inland Paperboard and Packaging, Inc. vs. Affiliated FM Insurance Company, et al., Cause No. 49D05-9708-CP-1142 (State of Indiana)
- PPG Industries, Inc. v. Accident Casualty Insurance Company of Winterhur, et al., Dkt. No. HUD- L-1845-95 (New Jersey Superior Court, Law Div., Hudson County)

# Marcia E. Williams

SENIOR VICE PRESIDENT

- Re-Claim Environmental v. State of Louisiana, Proceedings under Louisiana APA, La. R.S. 49:950 et seq., Consolidated Compliance Order & Notice of Potential Penalty WE-CN-99-0042
- Matheny, et al.v. International Paper Co., et al., Civil Action No. CV-99-804
- Appeal of Empire Management Systems, Inc., ASBCA No. 46741, Under Contract No. F44650-88-C- 0004; April, 2001
- United Technologies Corp., et al. v. American Home Assurance Company, Docket No.: 292-CV- 00267 (JBA)
- Hillary Thomas, et al., v. Conoco, Inc., et al., No. 98-5567 (14<sup>th</sup> Judicial District, Parish of Calcasieu, State of Louisiana)
- Redlands Tort Litigation, RCV 31496, Superior Court of the State of California for the County of San Bernardino
- State of New Mexico, et al. v. General Electric Company, et al., Case Nos. CV 99-1118 BSJ/KBM and CV 99-1254 BSJ/LFG (consolidated by Order on 6/14/00), United States District Court for the District of New Mexico
- Associated Indemnity Corporation and The American Insurance Company v. The Dow Chemical Company, No. 99 CV 76397, United States District Court for the Eastern District of Michigan, Northern Division
- Eli Lilly and Company v. The Aetna Casualty and Surety Company, et al., State of Indiana, County of Marion in the Marion Superior Court, Cause No. 49D12 0102 CP 000243
- Lockheed Martin Idaho Technologies Company v. Lockheed Martin Advanced Environmental Systems, Inc. and Lockheed Martin Corporation v. EG&G Idaho, Inc., Cause No. CIV98-0316-E- BLW (D. Idaho)
- Carol Antolovich, et al. v. Brown Group Retail, Inc., et al., District Court, City and County of Denver, State of Colorado, Case Number: 00CV 1021, February 12, 2003 and March 28, 2003
- Alcoa Inc. v. Accident and Casualty Insurance Co., et al., Superior Court of the State of Washington, County of King, Case No. 92-2-28065-5 (SEA-Consolidated) 2003, Deposition April 9 and 10, 2003 and May 28, 2003
- City of Modesto v. Dow Chemical Co., et al., Superior Court of the State of California in and for the County of San Francisco, Case Nos. 999345 and 999643, Deposition November 19 and 20, 2003
- USEPA Region 5 v. General Motors Automotive - North America, Docket No. RCRA-05-2004-0001, Trial testimony

# Marcia E. Williams

SENIOR VICE PRESIDENT

- Allgood, et al. v. General Motors Corporation, United States District Court, Southern District of Indiana, Indianapolis Division, Case No. IP02-1077-C-H/K
- King, et al. v. Hamilton Sundstrand Corporation, District Court, Adams County, Colorado, Case No. 02 CV 2018, Deposition March 31, 2006
- Drummond, et al. v. E.I. Du Pont de Nemours and Company, Circuit Court of Harrison County, West Virginia, Civil Action No. 05-C-148-1, Deposition November 27, 2006
- Perrine, et al. v. E.I. Du Pont de Nemours and Company, Circuit Court of Harrison County, West Virginia, Civil Action No. 04-C-296-2, Deposition June 5-6, 2007
- Texas Disposal Systems Landfill, Inc. v. Penske Truck Leasing Co., et al., District Court of Hays County, Texas, 207<sup>th</sup> Judicial District, Case No. 98-0159, Deposition August 16, 2007
- Angeles Chemical Company v. McKesson Corporation, et al., United States District Court, Central District of California, Case No. 01-10532 TJH (Ex), Deposition October 22-26, 2007
- Daniels Sharpsmart, Inc. v. Tyco International, United States Inc., et al., United States District Court, Eastern District of Texas, Texarkana Division, Case No. 5:05-CV-169, Deposition September 10, 2008
- United States of America v. Southern Union Company, United States District Court, District of Rhode Island, Case No. 07-134-S, Court testimony October 7, 2008
- Angeles Chemical Company v. McKesson Corporation, et al., United States District Court, Central District of California, Case No. 01-10532 TJH (Ex), Deposition October 30-31, 2008
- NCR v. AIG Centennial, et al., Circuit Court of Brown County, Wisconsin, Case No. 05-CV-2102, Deposition February 3-4, 2009
- City of Modesto v. Dow Chemical Co., et al., Superior Court of the State of California in and for the County of San Francisco, Case Nos. 999345 and 999643, Trial testimony March 9-10, 2009
- Appleton Papers & NCR Corp v. George A. Whiting Paper Co., et al., United States District Court, Eastern District of Wisconsin, Green Bay Division, Case No. 7 08-CV-16-WCG, Deposition August 26, 2009
- Evansville Greenway and Remediation Trust v. Southern Indiana Gas and Electric Company, Inc., et. al.; Evansville Greenway PRP Group, v. General Waste Products, et al., United States District Court, Southern District of Indiana, Evansville Division, Civil Action No. 03:07-cv-00066-DFH- WGH, Deposition February 11, 2010

# Marcia E. Williams

SENIOR VICE PRESIDENT

- Nancy Sher, et al. v. Raytheon Company, United States District Court, Middle District of Florida, Tampa Division, Case No. 8:08-CV-889-T-33AEP, Deposition July 14, 2010
- Beazer East, Inc. v. The Mead Corporation, United States District Court, Western District of Pennsylvania, Case No. 91-cv-00408, Deposition March 16, 2011
- Hinds Investments, LP, et al. vs. Gregory, et al., United States District Court, Southern District of California, Case No. 07 CV-848BTM, Deposition March 23, 2011
- Wells Fargo Bank, NA vs. Renz, et al., United States District Court, Northern District of California, Case No. CV 08-2561 SBA, Deposition April 1, 2011
- S. Berry and Tracy M. Johnson, et al., vs. Prime Tanning Corp., et al., Circuit Court of Buchanan County, Missouri, Case No.: 09BU-CV06421, Deposition June 14, 2011
- Doris Baity, et al. vs. General Electric, Supreme Court, State of New York, County of Cayuga, Case Index No.: 2001-524, Trial Testimony June 12-13, 2012
- Orange County Water District v. Sabic Innovative Plastics US LLC et al, Superior Court of the State of California in and for the County of Orange, Case No. 00078246, Deposition September 26, 2012
- John Michael Abicht, et al. v. Republic Services, Inc., et al, Court of Common Pleas, Tuscarawas County, Ohio, Case No. 2008 CT 10 0741, Deposition November 13, 2012
- United States of America v. Tonawanda Coke Corporation and Mark L. Kamholz, U.S. District Court, Western District of New York, Case No. 10-CR-219-S, Trial Testimony March 21, 2013
- People of the State of California, et al. vs. Atlantic Richfield Company, et al., Superior Court of the State of California in and for the County of Santa Clara, Case No. 1-00-CV-788657, Deposition May 16, 2013
- United States of America vs. RG Steel Wheeling, LLC, Mountain State Carbon, LLC and SNA Carbon, LLC, U.S. District Court, Northern District of West Virginia, Wheeling Division, Case No.: 5:12-CV-19, Deposition August 12-13, 2013 and Trial Testimony May 20, 2014
- Acosta, et al. vs. Shell Oil Company, et al., Superior Court of the State of California, County of Los Angeles, Central Civil West, Case No. NC053643, Deposition June 16, 2014
- Georgia-Pacific Consumer Products LP, et al. v. NCR Corporation, et al. U.S. District Court, Western District of Michigan, Southern Division, Case No.: 1:11-CV-483, Deposition April 28, 2015, Trial Testimony December 1 and 2, 2015

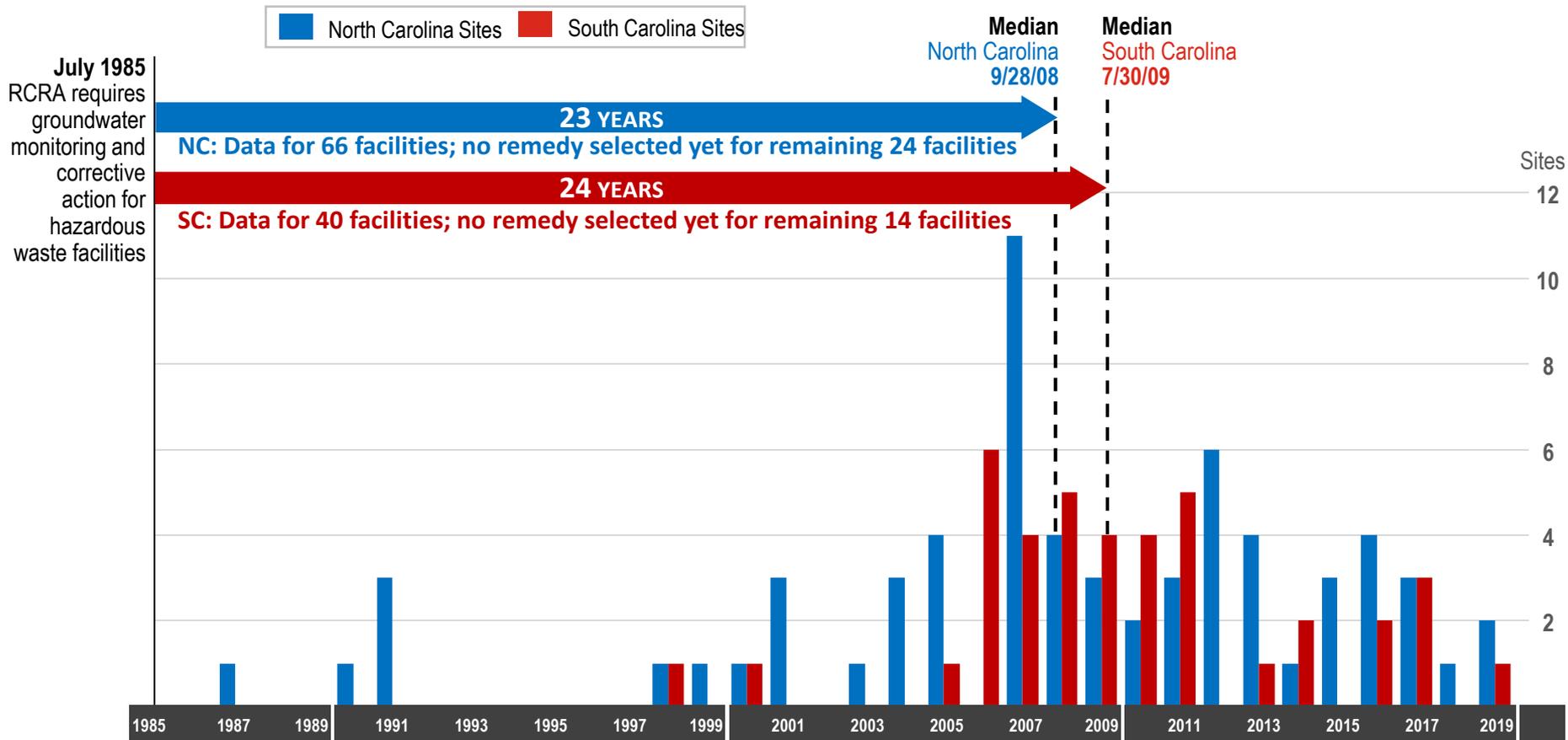
# Marcia E. Williams

SENIOR VICE PRESIDENT

- City of Hattiesburg vs. Hercules, Inc. and Ashland, Inc. U.S. District Court, Southern District of Mississippi, Hattiesburg Division, Civil Action No.: 2:13-cv-208KS-MTP, Deposition February 24, 2016
- Bechak vs. ATI Wah Chang, U.S. District Court, Northern District of Ohio, Eastern Division, Case No.: 4:15 CV 01692 JRA, Deposition August 30, 2016
- Hollingsworth vs. Hercules, Inc., U.S. District Court, Southern District of Mississippi, Eastern Division, Case No.: 2:15-cv-113KS-MTP, Deposition September 14, 2016
- NCR Corporation vs. P.H. Glatfelter Company, et al., U.S. District Court, Eastern District of Wisconsin, Green Bay Division, Case No.: 08-cv-00016-WCG, Deposition November 22, 2016
- Shell Oil Company vs. Barclay Hollander Corporation, et al., Superior Court of the State of California, County of Los Angeles, Case No. BC544786, Deposition October 11, 2017
- King County vs. Travelers Indemnity Co., et al. U.S. District Court, Western District of Washington at Seattle, Case No.: 2:14-CV-01957-MJP, Deposition March 27-28, 2019

# RCRA Hazardous Waste Corrective Action Facilities - Remedy Selection Date

I/A



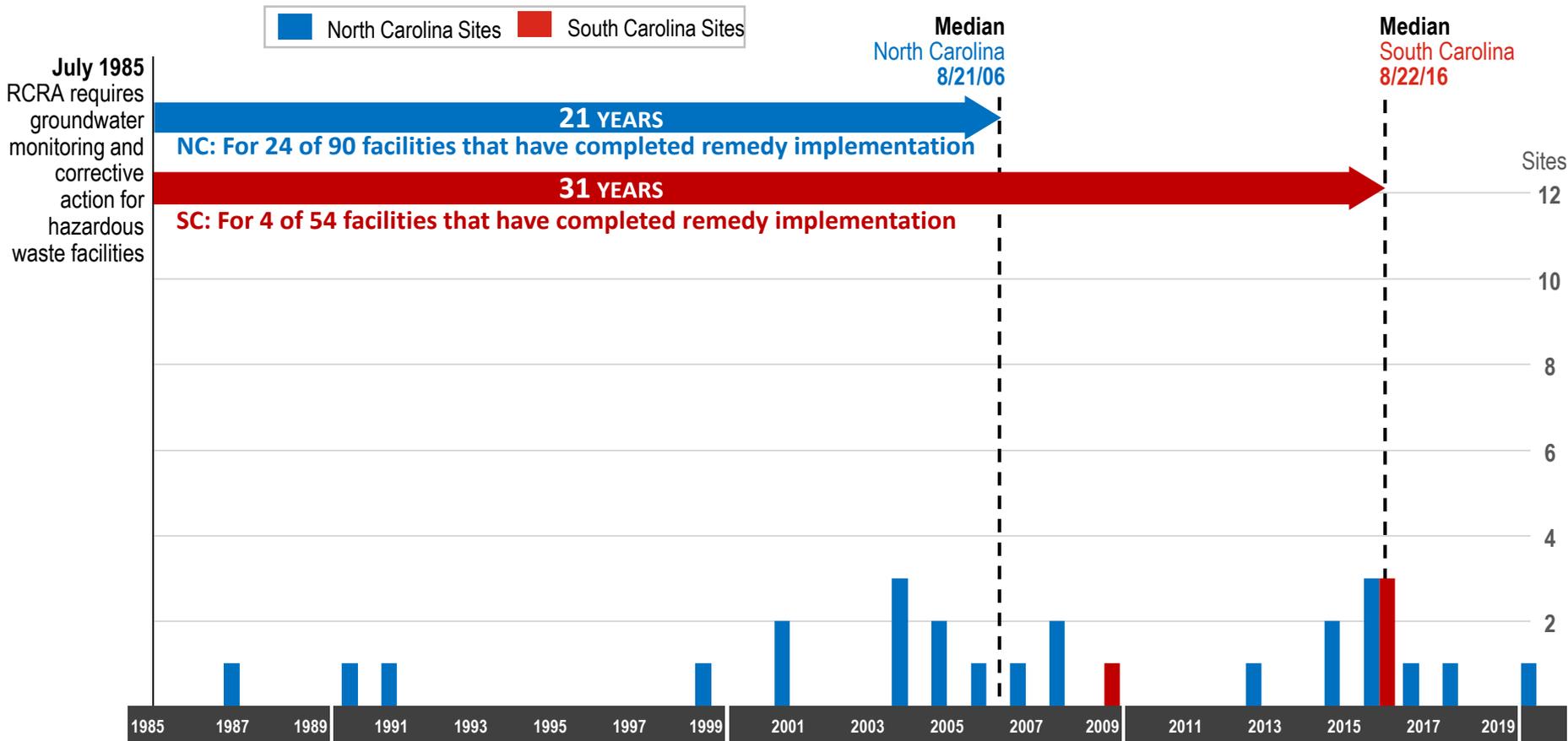
NC has 90 hazardous waste corrective action facilities  
 SC has 54 hazardous waste corrective action facilities

Remedy Selection Date (CA400) defined by EPA as date the State or EPA formally selects a remedy designed to met long-term goals of protection of human health and the environment.

Data obtained on March 9, 2020 from <https://ofmpub.epa.gov/apex/cimc/f?p=100:15:::NO:RIR,CIR::>

# RCRA Hazardous Waste Corrective Action Facilities - Remedy Completion Date

I/A



NC has 90 hazardous waste corrective action facilities  
SC has 54 hazardous waste corrective action facilities

Remedy Completion Date (CA999 and CA900) defined by EPA as the date remedy has been fully implemented and associated performance standards are attained or date that corrective action process terminated because all required activities are completed.

Data obtained on March 9, 2020 from <https://ofmpub.epa.gov/apex/cimc/f?p=100:15:::NO:RIR,CIR::>