



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960**

**AUG 19 2016**

Mr. S. Jay Zimmerman  
Director, Division of Water Resources  
North Carolina Department of Environmental Quality  
Division of Water Resources  
1617 Mail Service Center  
Raleigh, North Carolina 27699-1617

Re: Review of Proposed Final Permit  
Duke Energy Carolinas, LLC, Marshall Steam Station  
National Pollutant Discharge Elimination System Permit NC0004987

Dear Mr. Zimmerman:

On May 17, 2016, a draft National Pollutant Discharge Elimination System (NPDES) permit and supporting documents for the above referenced facility were received by the U.S. Environmental Protection Agency from the North Carolina Department of Environment Quality (NC DEQ), Division of Water Resources (DWR). NC DWR provided a public comment period for the draft permit and supporting documents from May 17 through June 22, 2016. The EPA completed its review of the draft permit and provided its comments and recommendations with respect to the draft permit in a letter dated June 16, 2016.

The EPA received a proposed final permit from NC DWR via email on August 4, 2016. On August 16, 2016, staff from our respective agencies participated in a teleconference to discuss EPA's review of the proposed permit. Following the teleconference, the EPA summarized our comments in an August 16, 2016, email and on August 18, 2016, a revised proposed permit was transmitted to the EPA from NC DWR via email. The majority of the EPA's comments were addressed. However, in accordance with Section IV.B.6 of the NPDES Memorandum of Agreement between EPA and NC DEQ, the EPA reiterates these comments and recommendations, which have not been addressed:

- A "Plan for Identification of New Discharges" should be included in the final permit.
- Conditions for decanting wastewater from coal ash ponds should be consistent for all facilities. The final permit should require daily monitoring for flow as well as the requirement specified in NC DWR's July 20, 2016, letter to Duke Energy:

"The decanting can only occur if one of the provisions below is met:

- 1) The wastewater is treated by physical-chemical treatment facilities.

- 2) The wastewater in the ash pond [should be analyzed] prior to the discharge and the results of the analysis should be returned to the facility by the lab within 24 hours. If the facility determines that the results of the analysis are below water quality standards, the facility is allowed to discharge wastewater for 1 week only. After discharge period of 1 week is completed, the facility shall begin the cycle again by sampling the wastewater in the ash pond."

In addition, the EPA notes that fly ash at the Marshall facility is currently handled dry during normal operation; therefore it is within DWR's discretion as the permitting authority, to require upon the effective date of the permit, there shall be no discharge of pollutants in fly ash transport water rather than allowing a compliance period until November 1, 2018, which does not appear to be needed by the facility.

The EPA does not currently have enough information to determine where the seeps emerge or reach jurisdictional waters of the United States. We recommend that the United States Army Corps of Engineers verify any jurisdictional determination before the permit is finalized.

Finally, as we have discussed, the proposed final permit authorizes discharges from un-engineered seeps that are not discharged through an engineered outfall or collected and rerouted to an engineered outfall. This creates challenges in permit development and compliance monitoring as it is unclear how such discharges can be accurately monitored for flow and discharge characterization. We note that an enforcement mechanism providing for elimination or rerouting of these seeps is an alternative and potentially preferable approach for addressing seeps of this nature. It has been North Carolina's election to develop permits for these discharges rather than addressing them through an enforcement mechanism, notwithstanding the difficulty of developing appropriate permit conditions and monitoring compliance.

The EPA has no further comments. If you have any questions, please do not hesitate to contact me at (404) 562-9345 or Ms. Denisse Diaz (404) 562-9610.

Sincerely,



James D. Giattina  
Director  
Water Protection Division

cc: Mr. Harry Sideris, Senior Vice President  
Duke Energy Carolinas, LLC