Kathryn Jones Cooper
Special Deputy Attorney General
N.C. Department of Justice
P.O. Box 629
Raleigh, NC 27602

Re: **State of North Carolina, ex re. N.C. Department of Environment and Natural Resources, Division of Water Quality, Plaintiff, Sierra Club, Waterkeeper Alliance and Western North Carolina Alliance, Plaintiff-Intervenors v. Duke Energy Progress, Inc., Defendant (Wake County, 13 CVS 4061)**

State of North Carolina, ex re. N.C. Department of Environment and Natural Resources, Division of Water Quality, Plaintiff, Catawba Riverkeeper Foundation, Inc., Plaintiff-Intervenor v. Duke Energy Progress, Inc., Defendant (Mecklenburg County, 13 CVS 935)

Dear Kathy:

This letter serves to provide NCDENR's recommendation related to the currently proposed consent order in the above- referenced cases. Based on changed circumstances discussed in more detail below, NCDENR believes it is appropriate to withdraw its support for the currently proposed order.

As noted in a February 20, 2014 letter updating the Court concerning the consent order, NCDENR has assembled a task force to re-evaluate the terms of the consent order. The terms of the consent order were negotiated based on a 2012 Declaratory Ruling of the Environmental Management Commission ("EMC") interpretation and application of the State's groundwater regulation (15A N.C. Admin. Code 2L .0101 *et seq.* ("2L Rules")). NCDENR is required to adhere to the EMC's interpretation of the regulations. Moreover, the EMC's ruling was consistent with NCDENR's longstanding application of the 2L rules and an informal 2009 Advisory Memorandum from the Office of Attorney General. In a March 6, 2014 Order, Judge Ridgeway found the 2012 EMC interpretation of the 2L regulations to be in error. In view of the Order, NCDENR believes the best course of action at this time is to withdraw its support for the current consent order.

Sincerely,

John E. Skvarla, III