



North Carolina Department of Environment and Natural Resources

Pat McCrory, Governor

John E. Skvarla, III, Secretary

November 6, 2014

Duke Energy  
Attn: Mr. Tim Russell  
P.O. Box 1551  
Raleigh, NC 27601

Duke Energy Corporation  
Attn: Mr. John Elnitsky, Vice-President  
Project Management and Construction  
P.O. Box 1007, Mail Code ST-28U  
Charlotte, NC 28201-1007

RE: HAZARD RECLASSIFICATION  
Sutton Steam Plant 1984 Ash Pond Dam, NEWHA-005  
Sutton Steam Plant 1971 Ash Pond Dam, NEWHA-004

Dear Mr. Russell and Mr. Elnitsky:

The Dam Safety Law of 1967, as amended, provides for the certification and inspection of dams in the interest of public health, safety and welfare, in order to reduce the risk of failure of such dams; to prevent injuries to persons, damage to property, and to insure the maintenance of stream flows.

Pursuant to a November 5, 2014 ruling from the state Division of Water Resources, Director Thomas Reeder notified Mr. Harry Sideris of Duke Energy that the Sutton 1972 Cooling Pond (state dam designation NEWHA-003) has been determined to be waters of the state. This determination requires the reclassification of the two ash pond dams at the Sutton Plant located directly above and draining into the 1972 cooling pond. The hazard reclassifications for these two dams are:

1. Sutton 1984 Ash Pond Dam (NEWHA-005): Reclassified from Low hazard to High hazard due to potential environmental damage (15A NCAC 2K .0211).
2. Sutton 1971 Ash Pond Dam (NEWHA-005): Reclassified from exempt (HB 119) to High hazard due to potential environmental damage (15A NCAC 2K .0211).

On February 20, 2014, staff from the Division's Wilmington Regional Office inspected both of the subject dams and found each to be satisfactory condition insofar as Dam Safety compliance is concerned. Mr. Russell and the Sutton Plant Senior Environmental Specialist for Safety, Mr. Kent Tyndall, were provided written documentation of that inspection which listed maintenance and operation recommendations. The new hazard classification for the subject dams will precipitate the need to continue annual inspections. Please expect an annual inspection early in calendar year 2015.

Please be advised that any plans and specification for modification or repair of the subject dams must be filed with the Division of Energy, Mineral, and Land Resources for approval pursuant to the North Carolina Administrative Code, Title 15A, Subchapter 2K – Dam Safety (15A NCAC 2K) prior to initiation of construction. Please note that any excavations into the dams or major repair work must be approved by this Division before any work is done. Additionally, please note that either dam may not be breached, meaning the dam may not be drained by cutting a notch in the dam, without prior engineered breach plans being submitted to and approved by this Division.

Please notify this office in writing if you wish to assert that you have no ownership or are otherwise not responsible for maintenance or repairs to the subject dams. If you have an emergency situation during non-office hours, please notify 911 and the State Emergency Operations Center at 1-800-858-0368. They will notify the appropriate personnel in this Division of the situation.

Your cooperation and consideration in maintaining a safe dam is appreciated. Should you have questions concerning our inspection, please contact me at (910) 796-7215.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Sams". The signature is fluid and cursive, with the first name "Daniel" being more prominent than the last name "Sams".

Daniel Sams, PE  
Wilmington Regional Engineer  
Land Quality Section

cc: Kent Tyndall, Safety, Sr. Environmental Spec., LV Sutton Energy Complex  
State Dam Safety Engineer  
Wilmington Regional Office File