



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

Donald R. van der Vaart
Secretary

February 25, 2015

CERTIFIED MAIL 7004 2890 0004 0654 2221
RETURN RECEIPT REQUESTED

Garry A. Whisnant
Duke Energy
Asheville Plant Manager
200 CP&L Drive
Arden, NC 28704

Subject: NOTICE OF VIOLATION AND NOTICE OF INTENT TO ENFORCE
NOV-2015-LV-0080
15A NCAC 02L Classifications and Water Quality Standards
Applicable to the Groundwaters of North Carolina
Asheville Plant
Permit No. NC0000396
Buncombe County

Dear Mr. Whisnant:

Chapter 143 of the North Carolina General Statutes authorizes and directs the Environmental Management Commission of the Department of Environment and Natural Resources to protect and preserve the water and air resources of the State. The Division of Water Resources (DWR) has the delegated authority to enforce adopted pollution control rules. This Notice of Violations (Notice) is a standard notification intended to advise you of the legal requirements under North Carolina law, and is being issued for violations of Title 15A of the North Carolina Administrative Code (NCAC) Subchapter 02L .0202 Groundwater Quality Standards.

This Notice is for constituents reported to the DWR that exceed the standards for CLASS GA waters, established in 15A NCAC 2L .0202 in monitoring wells located at or beyond the compliance boundary. By exceeding the standards for the reported constituents, Duke Energy is considered to be in violation of 15A NCAC 02L .0202 at the subject facility. Please note that pursuant to 15A NCAC 2L .0103(d), no person shall conduct or cause to be conducted, any activity which causes the concentration of any substance to exceed the values specified in 15A NCAC 2L .0202.

As a result of the violations, our office is considering a recommendation for the assessment of a civil penalty. If you wish to present an explanation for the violations, or if you believe there are

other factors which should be considered, please send such information in writing within thirty (30) days following receipt of this letter. Your explanation will be reviewed, and, if an enforcement action is still deemed appropriate, your explanation will be forwarded to the Director with the enforcement package for their consideration.

Fines may be imposed under NCGS 143-215.6A(a)(1) of not more than \$25,000 per violation of any classification, standard, limitation or management practice established pursuant to G.S. 143-214.1. Additional action may include the issuance of a special order against you under the authority of G.S. 143-215.2, or a request to the Attorney General to institute an action for injunctive relief. If any failure to act is continuous, penalties may be assessed not to exceed a maximum penalty of \$25,000 per day per violation under NCGS 143-215.6A(b) so long as the violation continues.

We appreciate your attention and prompt response in this matter. If you have any questions, please feel free to contact S. Jay Zimmerman at (919) 807-6351.

Sincerely,

apw
S. Jay Zimmerman For *SJZ*

S. Jay Zimmerman, P.G., Acting Director
Division of Water Resources

cc: ARO – WQROS
Buncombe County Health Department
File Copy