



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

NOTICE OF DEFICIENCY

August 11, 2014

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Duke Energy Corporation
Attention: Ms. Kimberlee Hutchinson, PE
Environmental Services
Post Office Box 1006
Mail Code EC 13K
Charlotte, North Carolina 28201-1006

7011 3500 0000 4267 0125

Duke Energy Corporation
Attention: Mr. John Elnitsky, Vice President
Project Management and Construction
550 South Tryon Street
Mail Code DEC 22C
Charlotte, North Carolina 28202

7011 3500 0000 4267 0132

RE: Marshall Active Ash Basin Dam
CATAW-054 – High Hazard Potential
Catawba River Basin
Catawba County

Dear Ms. Hutchinson 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.

Our records indicate that you are the owner/and or responsible for the referenced dam, which is located off NC Highway 150 in Catawba County. Your dam is categorized as a "High Hazard" dam. In the event of dam failure, significant environmental damage to Lake Norman could occur due to release of coal ash stored behind the dam.

On May 6, 2014, this Office received a digital copy of an internal inspection of the spillway system for the referenced dam. This submittal was in response to an information request issued by this Division on March 5, 2014, in which this Division requested that Duke Energy camera inspect all facilities that have decant structures with corrugated metal pipe (CMP) and concrete components. The decant structure for this dam is comprised of a concrete riser with a CMP pipe barrel slip lined with HDPE.

On June 13, 2014, Duke Energy was directed to retain the services of a registered professional engineer competent in the area of dam safety to review the internal video and provide a professional assessment of the decant structure with regard to overall structural integrity and recommendations for any needed repairs.

Our Division is in receipt of your June 26, 2014 correspondence, which stated a consultant was retained to provide an engineer's assessment of an internal camera inspection video and to make recommendations for repair based on recommendations in the engineer's assessment.

Our Division is also in receipt of your July 30, 2014 correspondence, which included a video assessment sealed by Mr. Richard L. Hiner, PE, of AMEC Environmental & Infrastructure, Incorporated. The assessment recommended repair of the discharge barrel.

In order to ensure the safety of this dam, It is requested that you prepare a repair plan for this facility that addresses the recommendations provided by your consultant and submit two copies of the plan to Division of Energy, Mineral and Land Resources for approval pursuant to the North Carolina Administrative Code, Title 15A, Subchapter 2D – Dam Safety (15A NCAC 2K). **A repair plan must be filed within sixty (60) days or October 13, 2014, whichever term is longer.** Repair plans at minimum must include:

- A. Construction drawings depicting plan layout, profile and necessary construction details in accordance with 15A NCAC 2K .0201 (b) (2),
- B. Construction specifications in accordance with 15A NCAC 2K .0201 (e) (4), (5), and (6), and
- C. An Engineer's Report addressing any calculations necessary to support the repair design in general compliance with 15A NCAC 2K .0201.

Please note any excavations in the dam or major repair work to this dam must be approved by this Division before any work is done. Additionally, please note that this 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.

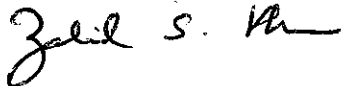
Please submit a written response as quickly as possible, but no later than ten (10) days following receipt of this Notice to advise us of your intended actions in this matter. This response must include a schedule for repair plan development and implementation. If positive action is not taken within sixty (60) days or October 13, 2014, whichever term is longer, we shall present the case information for appropriate enforcement action in

accordance with North Carolina General Statute 143-215.36. Enforcement action could include a civil penalty of up to \$500.00 per day of violation, and/or issuance of a Dam Safety Order requiring the repair or removal of this dam, and/or injunctive relief to gain compliance.

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 dam. If you have an emergency situation during non-office hours, you should notify 911 and the State Emergency Operations center at 1-(800) 858-0368. They will notify the appropriate personnel in this office of the situation.

It is recommended that you or your engineer direct questions related to repair applications or the dam plan review process to our dam safety staff at (919) 707-9220. All plans, specifications design data, and calculations must be submitted to the State Dam Safety Engineer. If you have any questions regarding this letter, please contact me at (704) 663-1699. Your cooperation and consideration in maintaining a safe dam is appreciated.

Sincerely,



Zahid S. Khan, CPM, CPESC, CPSWQ
Regional Engineer
Land Quality Section

EC: Steven M. McEvoy, PE, State Dam Safety Engineer
Water Quality Regional Operations Section