



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

Donald R. van der Vaart
Secretary

March 10, 2015

CERTIFIED MAIL - # 7004 2890 0004 0654 2115
RETURN RECEIPT REQUESTED

Harry K. Sideris
Senior Vice President
Environmental, Health & Safety
Duke Energy
526 South Church Street
Mail Code EC3XP
Charlotte, North Carolina 28202

SUBJECT: Assessment of Civil Penalties for Violation(s) of
N.C. General Statute(s) 143-215.1
L.V. Sutton Electric Plant
New Hanover County
NPDES Permit No. NC0001422
Enforcement File No. LV-2015-0035

Dear Mr. Sideris:

This letter transmits notice of a civil penalty assessed against Duke Energy in the amount of \$25,108,000.00, and \$8,883.61 in investigative costs, for a total of \$25,116,883.61. Attached is a copy of the assessment document explaining this penalty.

This action was taken under the authority vested in me by delegation provided by the Secretary of the Department of Environment and Natural Resources. Any continuing violation(s) may be the subject of a new enforcement action, including an additional penalty.

Within **thirty days** of receipt of this notice, you must do **one** of the following:

1. Submit payment of the penalty:

Payment should be made directly to the order of the Department of Environment and Natural Resources (do not include waiver form). Payment of the penalty will not foreclose further enforcement action for any continuing or new violation(s). Please submit payment to the attention of:

S. Jay Zimmerman, P.G.
Director, Division of Water Resources
1636 Mail Service Center
Raleigh, North Carolina 27699-1636

OR

2. Submit a written request for remission including a detailed justification for such request:

Please be aware that a request for remission is limited to consideration of the five factors listed below, as they may relate to the reasonableness of the amount of the civil penalty assessed. Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. Because a remission request forecloses the option of an administrative hearing, such a request must be accompanied by a waiver of your right to an administrative hearing and a stipulation and agreement that no factual or legal issues are in dispute. Please prepare a detailed statement that establishes why you believe the civil penalty should be remitted, and submit it to the Division of Water Resources at the address listed below. In determining whether a remission request will be approved, the following factors shall be considered:

- (1) whether one or more of the civil penalty assessment factors in NCGS 143B-282.1(b) were wrongfully applied to the detriment of the violator;
- (2) whether the violator promptly abated continuing environmental damage resulting from the violation;
- (3) whether the violation was inadvertent or a result of an accident;
- (4) whether the violator has been assessed civil penalties for any previous violations; or
- (5) whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

Please note that all evidence presented in support of your request for remission must be submitted in writing. The Director of the Division of Water Resources will review your evidence and inform you of their decision in the matter of your remission request. The response will provide details regarding the case status, directions for payment, and provision for further appeal of the penalty to the Environmental Management Commission's Committee on Civil Penalty Remissions (Committee). Please be advised that the Committee cannot consider information that was not part of the original remission request considered by the Director. Therefore, it is very important that you prepare a complete and thorough statement in support of your request for remission.

In order to request remission, you must complete and submit the enclosed "Request for Remission of Civil Penalties, Waiver of Right to an Administrative Hearing, and Stipulation of Facts" form within thirty (30) days of receipt of this notice. The Division of Water Resources also requests that you complete and submit the enclosed "Justification for Remission Request." Both forms should be submitted to the following address:

S. Jay Zimmerman, P.G.
Director, Division of Water Resources
1636 Mail Service Center
Raleigh, North Carolina 27699-1636

OR

3. File a petition for an administrative hearing with the Office of Administrative Hearings:

If you wish to contest any statement in the attached assessment document you must file a petition for an administrative hearing. You may obtain the petition form from the Office of Administrative Hearings. You must file the petition with the Office of Administrative Hearings within thirty (30) days of receipt of

Assessment of civil penalty
L.V. Sutton Electric Plant
Enforcement # LV-2015-0035

this notice. A petition is considered filed when it is received in the Office of Administrative Hearings during normal office hours. The Office of Administrative Hearings accepts filings Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., except for official state holidays. The petition may be filed by facsimile (fax) or electronic mail by an attached file (with restrictions) - provided the signed original, one (1) copy and a filing fee (if a filing fee is required by NCGS §150B-23.2) is received in the Office of Administrative Hearings within seven (7) business days following the faxed or electronic transmission. You should contact the Office of Administrative Hearings with all questions regarding the filing fee and/or the details of the filing process. The mailing address and telephone and fax numbers for the Office of Administrative Hearings are as follows:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714
Tel: (919) 431-3000
Fax: (919) 431-3100

One (1) copy of the petition must also be served on DENR as follows:

Sam M. Hayes
General Counsel, DENR
1601 Mail Service Center
Raleigh, NC 27699-1601

Failure to exercise one of the options above within thirty (30) days of receipt of this notice, as evidenced by an internal date/time received stamp (**not a postmark**), will result in this matter being referred to the Attorney General's Office for collection of the penalty through a civil action.

Please be advised that additional penalties may be assessed for violations that occur after the review period of this assessment. If you have any questions, please contact S. Jay Zimmerman at (919) 807-6351.

Sincerely,



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

ATTACHMENTS

cc: Jim Gregson, WQROS WiRO Supervisor w/ attachments
WQROS File Copy w/ attachments
WQ Permitting, Permit File NC0001422 w/ attachments
New Hanover County Health Department

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES

IN THE MATTER OF ASSESSMENT)	FINDINGS AND DECISIONS AND
OF CIVIL PENALTIES AGAINST)	ASSESSMENT OF CIVIL PENALTIES
)	
Duke Energy Progress, Inc.)	
)	
FOR VIOLATIONS OF:)	
NCGS 143-215.1)	
15A NCAC 2L .0103 (d))	
15A NCAC 2L .0202)	FILE NO. LV-2015-0035

The Rules under the North Carolina Administrative Code Subchapter 2L (15A NCAC 02L) were established to maintain and preserve the quality of the groundwaters, prevent and abate pollution and contamination of the waters of the state, protect public health, and permit management of the groundwaters for their best usage by the citizens of North Carolina. It is the policy of the Environment Management Commission that the best usage of the groundwaters of the state is a source of drinking water. Therefore the intent of these Rules (15A NCAC 02L) is to protect the overall high quality of North Carolina's groundwater to the level established by the standards. With this intention and pursuant to North Carolina General Statutes (N.C.G.S.) 143-215.6(A) and the delegation provided by the Secretary of the Department of Environment and Natural Resources, I, Jay Zimmerman, Director of the Division of Water Resources (hereafter the Division), make the following:

I. FINDINGS OF FACT:

- A. Duke Energy Progress, Inc. (hereinafter Duke Energy) is a corporation organized and existing under the laws of the State of North Carolina and is in the business of electric power generation.
- B. Duke Energy owns and operates the L.V. Sutton Energy Complex, located at 801 Sutton Steam Plant Road, Wilmington, N.C. in New Hanover County (hereafter the facility).
- C. The groundwater in the area of the facility is classified as Class GA waters in accordance with the rules of the Environmental Management Commission, codified at Title 15A, North Carolina Administrative Code (NCAC), Subchapter 2L (15A NCAC 2L).
- D. The Compliance Boundary, as defined at 15A NCAC 2L .0102 (3), means a boundary around a disposal system at and beyond which groundwater quality standards may not be exceeded and only applies to facilities which have received a permit issued under authority of G.S. 143-215.1 or G.S. 130A.
- E. The Waste Boundary, as defined at 15A NCAC 2L .0102 (26), means the perimeter of the permitted waste disposal area.

- F. The Rules at 15A NCAC 2L .0103(d) prohibit any person from conducting, or causing to be conducted, any activity which causes the concentration of any substance to exceed that specified in 15A NCAC 2L .0202.
- G. The compliance boundary for disposal systems individually permitted prior to December 30, 1983, is established at a horizontal distance of 500 feet from the waste boundary or at the property boundary, whichever is closer to the source, pursuant to 15A NCAC 2L .0107(a).
- H. Permit No. NC0001422 was originally issued on June 30, 1977. On December 2, 2011, Carolina Power & Light d/b/a Progress Energy Carolinas, Inc. was issued the most recent NPDES permit No. NC0001422 for discharge of wastewater from the L.V. Sutton Energy Complex.
- I. By letter dated June 10, 2013, Duke Energy requested that all permits listed under Carolina Power & Light d/b/a Progress Energy Carolinas, Inc. be changed to Duke Energy Progress, Inc. This letter included an attachment listing all permits necessitating name changes, which included Permit No. NC0001422.
- J. Permit No. NC0001422 is required under North Carolina General Statute 143-215.1.
- K. Fly Ash and bottom Ash generated from coal combustion was stored in on-site Ash management areas. The Ash basin system consists of two Ash basins (built in approximately 1971 and 1984). This system is part of the Plant's wastewater treatment and disposal system covered under Permit No. NC0001422.
- L. Permit Condition A. (8) requires Groundwater Monitoring, well construction, and sampling in accordance with the Sampling Plan approved by the Division. The approved Groundwater Monitoring Plan for Permit No. NC0001422 established a Compliance Boundary around the permitted facility in accordance with the requirements of 15A NCAC 2L .0107(a).
- M. This disposal system was individually permitted prior to December 30, 1983; therefore the Compliance Boundary is established at either 500 feet from the effluent disposal area, or at the property boundary, whichever is closest to the effluent disposal area. Duke Energy does not meet the Rules in 15A NCAC 2L .0106(e)(2), and therefore, an exceedance of Groundwater Quality Standards at or beyond the Compliance Boundary is a violation subject to corrective action according to 15A NCAC 02L .0106(c).
- N. The approved Groundwater Monitoring Plan for Permit No. NC0001422 required monitoring for select groundwater parameters from monitor wells. The Groundwater Monitoring Plan was revised on March 17, 2011 and again on October 24, 2012.
- O. The Groundwater Quality Standards established in 15A NCAC 2L .0202 in Class GA waters for the following parameters are summarized in the following table:

Arsenic	10 ug/l
Boron	700 ug/l
Iron	300 ug/l

Manganese	50 ug/l
Selenium	20 ug/l
Thallium	0.2 ug/l
Total Dissolved Solids (TDS)	500 mg/l

- P. The Division received groundwater monitoring reports from Duke Energy beginning in 1995. Monitoring reports confirm that violations of the Groundwater Quality Standards have occurred at or beyond the compliance boundary at this facility.
- Q. Groundwater monitoring wells MW-4 and MW-5 represent background ambient conditions.
- R. The violations of Groundwater Quality Standards for Arsenic occurred in monitor well MW-21C, located at or beyond the Compliance Boundary. Concentrations of Arsenic were determined to be below detection levels in background wells. The concentrations of Arsenic in monitoring well(s) exceeded the Groundwater Quality Standards for the time period from October 2, 2013 through October 2, 2014, representing 365 days of continuous violation.
- S. The violations of Groundwater Quality Standards for Boron occurred in monitor wells MW-12, MW-19, MW-21C, MW-22C, MW-23B, MW-23C, MW-24B, MW-24C, and MW-31C located at or beyond the compliance boundary. Concentrations of Boron were determined to be below detection levels in background wells. The concentrations of Boron in monitoring well(s) exceeded the Groundwater Quality Standards for the time period from October 6, 2009 through October 2, 2014, representing 1,822 days of continuous violation.
- T. The violations of Groundwater Quality Standards for Iron occurred in monitor wells MW-21C, MW-24C, and MW-31C located at or beyond the compliance boundary. The concentrations of Iron in monitoring well(s) indicate a statistically significant difference when compared to the concentrations of Iron in the background wells, indicating an exceedance of the Groundwater Quality Standards for the time period from October 2, 2012 through October 2, 2014, representing 730 days of continuous violation.
- U. The violations of Groundwater Quality Standards for Manganese occurred in monitor wells MW-19, MW-21C, MW-22C, MW-23C, MW-24C, and MW-31C located at or beyond the compliance boundary. The concentrations of Manganese in monitoring well(s) indicate a statistically significant difference when compared to the concentrations of Manganese in the background wells, indicating an exceedance of the Groundwater Quality Standards for the time period from October 2, 2012 through October 2, 2014, representing 730 days of continuous violation.
- V. The violations of Groundwater Quality Standards for Selenium occurred in monitor well MW-27B, located at or beyond the compliance boundary. Concentrations of Selenium were determined to be below detection levels in background wells. The concentrations of Selenium in monitoring well(s) exceeded the Groundwater Quality Standards for the time period from October 2, 2012 through October 1, 2014, representing 729 days of continuous violation.
- W. The violations of Groundwater Quality Standards for Thallium occurred in monitor wells MW-19 and MW-24B located at or beyond the compliance boundary. Concentrations of

Thallium were determined to be below detection levels in background wells. The concentrations of Thallium in monitoring well(s) exceeded the Groundwater Quality Standards for the time period from March 9, 2010 through October 2, 2014, representing 1,668 days of continuous violation.

- X. The violations of Groundwater Quality Standards for Total Dissolved Solids (TDS) occurred in monitor well MW-24C located at or beyond the compliance boundary. Concentrations of TDS were determined to be below detection levels in background wells. The concentrations of TDS in monitoring well(s) exceeded the Groundwater Quality Standards for the time period from October 3, 2012 through October 1, 2014, representing 728 days of continuous violation.
- Y. On August 26, 2014, a Notice of Violation (NOV) and Notice of Intent to Enforce was issued to Duke Energy for conducting or controlling an activity that caused the concentration of contaminants in groundwater to exceed the groundwater standards adopted pursuant to N.C.G.S. 143-214.1 and set forth in 15A NCAC 2L .0202. The NOV was sent by Certified Mail, Return Receipt Requested and received on August 29, 2014.
- Z. The cost to the State of the enforcement procedures in this matter totaled \$8,883.61.

Based upon the above Findings of Fact, I make the following:

II. CONCLUSIONS OF LAW:

- A. Duke Energy Progress, Inc. is a "person" within the meaning of G.S. 143-215.6A pursuant to N.C.G.S. 143-212(4).
- B. Permit No. NC0001422 is required by N.C.G.S. 143-215.1.
- C. Permit No NC0001422 was originally issued on June 30, 1977.
- D. Compliance with all conditions set forth in Permit No. NC0001422 is required for wastewater treatment and disposal operations pursuant to G.S. 143-215.6A(a)(2).
- E. The Waste Boundary, as defined at 15A NCAC 2L .0102 (26), means the perimeter of the permitted waste disposal area.
- F. The Compliance Boundary, as defined at 15A NCAC 2L .0102 (3), means a boundary around a disposal system at and beyond which groundwater quality standards may not be exceeded and only applies to facilities which have received a permit issued under authority of G.S. 143-215.1 or G.S. 130A.
- G. Duke Energy violated 15A NCAC 2L .0103(d) by conducting an activity causing the concentration of contaminants in groundwater to exceed the groundwater standards adopted pursuant to N.C.G.S. 143-214.1 and set forth in 15A NCAC 2L .0202.

- H. Duke Energy violated N.C.G.S. 143-215.1. The Compliance Boundary for the disposal system is specified by regulations in 15A NCAC 2L, Groundwater Classifications and Standards. The Compliance Boundary for the disposal system constructed prior to December 30, 1983 is established at either (1) 500 feet from the waste disposal area, or (2) at the property boundary, whichever is closest to the waste disposal area. An exceedance of Groundwater Quality Standards at or beyond the Compliance Boundary is subject to Corrective Action in addition to the penalty provisions applicable under General Statute 143-215.6A(a)(1). The violations are a result from the sampling of the site's monitoring wells demonstrating the facility to be in violation of the Groundwater Quality Standards.
- I. Duke Energy violated 15A NCAC 2L .0202 and -.0103 on 365 days by exceeding the standard referenced in 15A NCAC 2L .0202 for Arsenic at or beyond the compliance boundary in monitor well(s) MW-21C, from October 2, 2013 through October 2, 2014.
- J. Duke Energy violated 15A NCAC 2L .0202 and -.0103 on 1,822 days by exceeding the standard referenced in 15A NCAC 2L .0202 for Boron at or beyond the compliance boundary in monitor well(s) MW-12, MW-19, MW-21C, MW-22C, MW-23B, MW-23C, MW-24B, MW-24C, and MW-31C, from October 6, 2009 through October 2, 2014.
- K. Duke Energy violated 15A NCAC 2L .0202 and -.0103 on 730 days by exceeding a statistically-established concentration that is higher than the standard referenced in 15A NCAC 2L .0202 for Iron, at or beyond the compliance boundary in monitor well(s) MW-21C, MW-24C, and MW-31C, from October 2, 2012 through October 2, 2014.
- L. Duke Energy violated 15A NCAC 2L .0202 and -.0103 on 730 days by exceeding a statistically-established concentration that is higher than the standard referenced in 15A NCAC 2L .0202 for Manganese, at or beyond the compliance boundary in monitor well(s) MW-19, MW-21C, MW-22C, MW-23C, MW-24C, and MW-31C, from October 2, 2012 through October 2, 2014.
- M. Duke Energy violated 15A NCAC 2L .0202 and -.0103 on 729 days by exceeding the standard referenced in 15A NCAC 2L .0202 for Selenium at or beyond the compliance boundary in monitor well(s) MW-27B, from October 2, 2012 through October 1, 2014.
- N. Duke Energy violated 15A NCAC 2L .0202 and -.0103 on 1,668 days by exceeding the standard referenced in 15A NCAC 2L .0202 for Thallium at or beyond the compliance boundary in monitor well(s) MW-19 and MW-24B, March 9, 2010 through October 2, 2014.
- O. Duke Energy violated 15A NCAC 2L .0202 and -.0103 on 728 days by exceeding the standard referenced in 15A NCAC 2L .0202 for Total Dissolved Solids (TDS) at or beyond the compliance boundary in monitor well(s) MW-24C, October 3, 2012 through October 1, 2014.
- P. N.C.G.S. 143-215.6A(a)(1) provides that the Secretary of the Department of Environment and Natural Resources may assess a civil penalty of not more than \$25,000.00 against any person who violates any classification, standard, limitation or management practice established pursuant to N.C.G.S. 143-214.1, 143-214.2 or 143-215.

Q. N.C.G.S. 143-215.6A(b) provides that if any action or failure to act for which a penalty may be assessed under this section is continuous, the Secretary may assess a penalty not to exceed twenty-five thousand dollars (\$25,000) per day for so long as the violation continues, unless otherwise stipulated.

R. N.C.G.S. 143-215.3(a)(9) provides that the reasonable costs of any investigation, inspection, or monitoring survey may be assessed against a person who violates any regulation, standards or limitations adopted by the Environmental Management Commission.

III. DECISION:

Pursuant to N.C.G.S. 143-215.6A, in determining the amount of the penalty, I have taken into account the Findings of Fact and Conclusions of Law and considered all the factors listed in N.C.G.S. 143B-282.1. Accordingly, Duke Energy shall be, and hereby is assessed a civil penalty of:

\$ 1,825,000.00 For violation of N.C.G.S. 143-215.1, 15A NCAC 2L .0202 and -.0103 on 365 days by exceeding the standard referenced in 15A NCAC 2L .0202 for Arsenic at or beyond the compliance boundary in monitor well(s) MW-21C, from October 2, 2013 through October 2, 2014 for a period of **365** days.

\$ 9,110,000.00 For violation of N.C.G.S. 143-215.1, 15A NCAC 2L .0202 and -.0103 on 1,822 days by exceeding the standard referenced in 15A NCAC 2L .0202 for Boron at or beyond the compliance boundary in monitor well(s) MW-12, MW-19, MW-21C, MW-22C, MW-23B, MW-23C, MW-24B, MW-24C, and MW-31C, from October 6, 2009 through October 2, 2014 for a period of **1,822** days.

\$ 730,000.00 For violation of N.C.G.S. 143-215.1, 15A NCAC 2L .0202 and -.0103 on 730 days by exceeding a statistically-established concentration that is higher than the standard referenced in 15A NCAC 2L .0202 for Iron, at or beyond the compliance boundary in monitor well(s) MW-21C, MW-24C, and MW-31C, from October 2, 2012 through October 2, 2014, for a period of **730** days.

\$ 730,000.00 For violation of N.C.G.S. 143-215.1, 15A NCAC 2L .0202 and -.0103 on 730 days by exceeding a statistically-established concentration that is higher than the standard referenced in 15A NCAC 2L .0202 for Manganese, at or beyond the compliance boundary in monitor well(s) MW-19, MW-21C, MW-22C, MW-23C, MW-24C, and MW-31C, from October 2, 2012 through October 2, 2014, for a period of **730** days.

\$ 3,645,000.00 For violation of N.C.G.S. 143-215.1, 15A NCAC 2L .0202 and -.0103 on 729 days by exceeding the standard referenced in 15A NCAC 2L .0202 for Selenium at or beyond the compliance boundary in monitor well(s) MW-27B, from October 2, 2012 through October 1, 2014, for a period of **729** days.

\$ 8,340,000.00 For violation of N.C.G.S. 143-215.1, 15A NCAC 2L .0202 and -.0103 on 1,668 days by exceeding the standard referenced in 15A NCAC 2L .0202 for Thallium

at or beyond the compliance boundary in monitor well(s) MW-19 and MW-24B, from March 9, 2010 through October 2, 2014, for a period of **1,668** days.

\$ 128,000.00

For violation of N.C.G.S. 143-215.1, 15A NCAC 2L .0202 and -.0103 on 728 days by exceeding the standard referenced in 15A NCAC 2L .0202 for Total Dissolved Solids (TDS) at or beyond the compliance boundary in monitor well(s) MW-24C, from October 3, 2012 through October 1, 2014, for a period of **728** days.

\$ 25,108,000.00

TOTAL CIVIL PENALTY which is 20 percent of the maximum penalty authorized by N.C.G.S. 143-215.6A; and

\$ 8,883.61

Enforcement costs

\$ 25,116,883.61

TOTAL AMOUNT DUE

Pursuant to N.C.G.S. 143-215.6A(c), in determining the amount of the penalty I have taken into account the Findings of Fact and Conclusions of Law and the factors set forth at N.C.G.S. 143B-282.1(b), which are:

- (1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation;
- (2) The duration and gravity of the violation;
- (3) The effect on ground or surface water quantity or quality or on air quality;
- (4) The cost of rectifying the damage;
- (5) The amount of money saved by noncompliance;
- (6) Whether the violation was committed willfully or intentionally;
- (7) The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority; and
- (8) The cost to the State of the enforcement procedures.

IV. NOTICE:

I reserve the right to assess civil penalties and investigative costs for any continuing violations occurring after the assessment period indicated above. Each day of a continuing violation may be considered a separate violation subject to a maximum \$25,000.00 per day penalty. Civil penalties and investigative cost may be assessed for any other rules and statutes for which penalties have not yet been assessed.

V. TRANSMITTAL:

This Civil Penalty Assessment is directed to be transmitted to Duke Energy , in accordance with N.C.G.S. 143-215.6A(d).

3/10 /2015

Date

A handwritten signature in black ink, appearing to read "S. Jay Zimmerman", is written over a horizontal line.

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

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES

IN THE MATTER OF ASSESSMENT
OF CIVIL PENALTIES AGAINST

DUKE ENERGY PROGRESS
L.V. SUTTON ELECTRIC PLANT

PERMIT NO. NC0001422

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WAIVER OF RIGHT TO AN
ADMINISTRATIVE HEARING AND
STIPULATION OF FACTS

FILE NO. LV-2015-0035

Having been assessed civil penalties totaling \$25,116,883.61 for violation(s) as set forth in the assessment document of the Division of Water Resources dated, March 10, 2015, the undersigned, desiring to seek remission of the civil penalty, does hereby waive the right to an administrative hearing in the above-stated matter and does stipulate that the facts are as alleged in the assessment document. The undersigned further understands that all evidence presented in support of remission of this civil penalty must be submitted to the Acting Director of the Division of Water Resources within thirty (30) days of receipt of the notice of assessment. No new evidence in support of a remission request will be allowed after thirty (30) days from the receipt of the notice of assessment.

This the _____ day of _____, 2015

Signature

ADDRESS

TELEPHONE

JUSTIFICATION FOR REMISSION REQUEST

Case Number: LV-2015-0035

County: New Hanover

Assessed Party: Duke Energy Progress – L.V. Sutton Electric Plant

Permit No.: NC0001422

Amount assessed: \$25,116,883.61

Please use this form when requesting remission of this civil penalty. You must also complete the "Request For Remission, Waiver of Right to an Administrative Hearing, and Stipulation of Facts" form to request remission of this civil penalty. You should attach any documents that you believe support your request and are necessary for the Director to consider in determining your request for remission. Please be aware that a request for remission is limited to consideration of the five factors listed below as they may relate to the reasonableness of the amount of the civil penalty assessed. Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. By law [NCGS 133-215.6A(f)] remission of a civil penalty may be granted when one or more of the following five factors applies. Please check each factor that you believe applies to your case and provide a detailed explanation, including copies of supporting documents, as to why the factor applies (attach additional pages as needed).

- ☐ (a) one or more of the civil penalty assessment factors in NCGS 143B-282.1(b) were wrongfully applied to the detriment of the petitioner (the assessment factors are included in the attached penalty matrix and/or listed in the civil penalty assessment document);
- ☐ (b) the violator promptly abated continuing environmental damage resulting from the violation (i.e., explain the steps that you took to correct the violation and prevent future occurrences);
- ☐ (c) the violation was inadvertent or a result of an accident (i.e., explain why the violation was unavoidable or something you could not prevent or prepare for);
- ☐ (d) the violator had not been assessed civil penalties for any previous violations;
- ☐ (e) payment of the civil penalty will prevent payment for the remaining necessary remedial actions (i.e., explain how payment of the civil penalty will prevent you from performing the activities necessary to achieve compliance).

EXPLANATION: