



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

June 17, 2014

Notice of Deficiency

Duke Energy Corporation
Attn: Mr. John Toepfer
P.O. Box 1151
Raleigh, NC 27602

7008 1830 0001 8839 4770

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

7008 1830 0001 8839 4794

RE: Weatherspoon 1979 Ash Pond Dam, ROBES-009
Video provided of March 28 pipe inspection

Dear Mr. Toepfer, 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 party for the referenced dam, which is located in Robeson County, NC. On April 7, 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. The decant structure for this dam is a concrete riser with concrete barrel and a corrugated metal trash rack.

This office has reviewed video taken in the barrel and riser structures of the dam. A preliminary review of the camera inspection video of the decant structure has been performed by personnel of the Land Quality Section for the referenced dam. The video documented numerous gushers, weepers, drippers, and stains.

The condition of the decant structure appears serious enough to justify further engineering study in order to determine appropriate remedial measures. Your dam is categorized as an "Intermediate Hazard" dam. In the event of dam failure, significant environmental damage to a tributary of the Lumber River could occur due to release of coal ash stored behind the dam.

Division of Energy, Mineral, and Land Resources
Land Quality Section – Fayetteville Regional Office
225 Green Street, Suite 714, Fayetteville, North Carolina 28304 • Telephone 910-433-3300
Internet: <http://www.dlr.enr.state.nc.us/pages/landqualitysection.html>
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In order to ensure the safety of this dam, you are 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 repair. Plans and specifications for repair based on the results of the study must be filed with the 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). 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 thirty (30) days or before July 20, 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 dams. 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 Division 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 (910) 433-3300. Your cooperation and consideration in maintaining a safe dam is appreciated.

Sincerely,



Brad Cole, PE
Regional Engineer
Land Quality Section

cc: State Dam Safety Engineer
Fayetteville Regional Office File